

TAB 4

**MURRAY & MURRAY CO., L.P.A.**  
**111 E. SHORELINE DRIVE**  
**SANDUSKY, OHIO 44870**  
**[www.murrayandmurray.com](http://www.murrayandmurray.com)**  
**(419) 624-3000**

The Sandusky law firm of Murray & Murray was founded in 1931 by Emmett Murray and his brother Thomas Murray. The firm presently has eleven lawyers exclusively practicing civil complex litigation. Seven of the lawyers are Murrays.

**PROFESSIONAL BIOGRAPHY OF MURRAY & MURRAY**

**DENNIS E. MURRAY, SR.** received a Juris Doctor degree from the University of Michigan Law School. He received his undergraduate degree from The College of Holy Cross. He has been a licensed and practicing plaintiffs' trial lawyer since 1963. He is also an inactive licensed, certified public accountant; licensed to practice in the U.S. Supreme Court and many of the federal and appellate courts; a member of the Bars of the States of Ohio, Florida, and Michigan and is a member of the Ohio Society of Certified Public Accountants and of the Ohio Association of Justice. He has had extensive jury trial practice for more than 50 years; receiving multi-million dollar jury verdict awards for trials involving bad faith insurance company misconduct, tortious interference with contractual rights, negligent training and negligent discharge of firearms; commercial and securities litigation and for automobile and motorcycle liability. He has received the highest jury awards in many categories in the State of Ohio and has had extensive trial and appellate practice in business and commercial litigation; has been lead counsel in multi-million dollar resolutions of litigation concerning securities, leveraged buyouts, insurance; motor vehicles and consumer fraud and has litigated numerous class actions in the areas of employment discrimination, toxic torts, and commercial litigation in state and federal courts for more than 4 decades. His name appears as lead counsel in numerous cases decided by the Ohio Supreme Court in the last 50 years, including the issues of class certification; toxic torts; jury trial entitlement; insurance company duties to insureds and to injured parties; duties owing to minority shareholders; exclusivity of "fair cash value" in squeeze out mergers; whistle blower protection; labor organization liability for tortious misconduct; punitive damage standards and many other extremely significant legal issues. Mr. Murray is recognized as a "Super Lawyer" in Ohio and in 2015 was awarded the "Lifetime Achievement Award" by the Ohio Association for Justice.

**DENNIS E. MURRAY, JR.** received a Juris Doctor cum laude degree from Georgetown University Law School in 1987. He received a Bachelor of Arts, magna cum laude, from Georgetown University in 1984, Phi Beta Kappa. He is licensed to practice law in the State of Ohio, the United States District Court for the Northern District of Ohio, and Sixth Circuit U.S. Court of Appeals. He is the Co-author of *Corporate Constituencies: Whose Corporation Is It Anyway*, *The Corporate Analyst*; *The Unconstitutionality of Sovereign Immunity in Ohio: Last Stand for the Illegitimate King*. He served as a Grader for the Ohio Bar Examinations from 1995-2005; the Ohio Supreme Court Traffic Rules Committee from 1990 to 1994; the Erie-Huron

Grievance Committee from 1992-2006; as a General Assembly representative to the Ohio Supreme Court's Court Funding Task Force from 2011-13. He served as the State Representative for the 80th District in the Ohio House of Representatives from 2009-2012, as a member of Ohio's Constitutional Modernization Commission from 2011-13 and as a Sandusky City Commissioner from 2006-2008 and 2014-present (president 2008 and 2014-2019; vice-president 2020). He has been AV rated for over twenty years and has been recognized as an Ohio "Super Lawyer" for many years. He practices in Complex Civil Litigation including investor, class action, banking, antitrust, consumer issues and legal malpractice and fraud.

**CHARLES M. MURRAY** received a Juris Doctor degree from the University of Dayton in 1991. He received a Bachelor of Arts degree from Xavier University in 1987. He worked as the Assistant Prosecuting Attorney in the Adult Felony Trial Division in Erie County from 1991 to 1993. He is licensed to practice law in the State of Ohio, the U.S. District Court for the Northern District of Ohio, Sixth Circuit U.S. Court of Appeals. He is board certified as a Civil Trial Advocate by the National Board of Trial Advocacy. He is a member of the Erie County and Ohio State Bar Associations; the Cleveland Academy of Trial Lawyers; American Association for Justice; and Ohio Association for Justice. He is a member of the National College of Advocacy and the National Board of Trial Advocates. He was appointed by Ohio Supreme Court to service on the Task Force for Jury Service from 2002 to 2004. He is a member of the Erie County Public Defenders' Board, the Sandusky Central Catholic School Board and the State Theatre Board. He practices in Personal Injury, Wrongful Death, Medical Malpractice, and Plaintiffs' Trial Practice.

**MARGARET M. MURRAY** received a Juris Doctor degree as a merit scholar from Case Western Reserve University in 1996. She received a Bachelor of Arts degree from College of The Holy Cross in 1993. She is licensed to practice law in the State of Ohio, Commonwealth of Pennsylvania, U.S. District Court for the Northern District of Ohio, U.S. District Court for the Southern District of Ohio, U.S. District Court for the Eastern District of Michigan, and Sixth Circuit U.S. Court of Appeals. She is a member of the Erie County and Ohio State Associations. She is a former Trustee of the Ohio Association for Justice and is a member of the American Association for Justice. She worked as an Assistant Prosecuting Attorney for Erie County from 1996 to 1997. Appointed by U.S. Senators Sherrod Brown and George Voinovich, she served on the United State Senate Judicial Nominations Committee for the Southern District of Ohio from 2009-2012. She was reappointed to that Commission by U.S. Senators Sherrod Brown and Rob Portman in 2016. In 2017, Margaret was appointed to the U.S. Senate Judicial Nominations Commission for the State of Ohio by Senators Brown and Portman. She has lectured on Federal Multi-District Litigation, subrogation, civil procedure, class actions, insurance law, ethics, product liability and brief writing. She is a former president of the Second Harvest Food Bank of North Central Ohio. She was appointed as a member of the Ohio State Bar Association Special Committee on Subrogation and as a member of the Ohio State Bar Association Subrogation Task Force. She is also a member of the OSBA Legal Ethics and Professional Conduct Committee and currently served on the Erie-Huron County Joint Certified Grievance Committee from 2011-2020 (Chair 2015-2016). She served as the Chair of the Ohio Association for Justice Covid-19 Immunity Task Force in 2020. Margaret has served as the Amicus Curiae Chair for the Ohio Association of Justice since 2009. Margaret has served a Commissioner on the Erie County MetroParks Board since 2016. She practices in Personal Injury, Complex Litigation, Class Actions, and Wrongful Death.

**JAMES L. MURRAY** received a Juris Doctor degree from Case Western Reserve University in 1997. He received a Bachelor of Arts degree from Boston College in 1994. He is licensed to practice law in the State of Ohio and the U.S. District Court for the Northern District of Ohio. He is a member of the Erie County, Ohio State and American Bar Associations. He is a member of the Ohio Association for Justice and the American Association for Justice. He worked as an Assistant Prosecuting Attorney in the Felony Division of Cuyahoga County from 1998-2002. He served nine years on the Legal Aid of Western Ohio and Advocates for Basic Equality Board of Trustees including four years as Vice President. He is the current Vice Chair of the Erie County Democratic Party, is a member of the Wightman Wieber Foundation Board of Trustees and sits on the Huron Baseball Softball Program Board. His practice areas include Personal Injury, Discrimination, Wrongful Death, Breach of Contract and Criminal Defense.

**FLORENCE A. MURRAY** joined the firm in 2011. She received her Juris Doctor degree from the Michael E. Moritz College of Law at the Ohio State University in 2005 where she received the James F. Flynn Memorial, Wilbert G. and Hilma R. Schwer, and Women Lawyers of Franklin County scholarships. She also holds a Masters in Business Administration from the Weatherhead School of Management at Case Western Reserve University, M.Ed Ashland University and a Bachelors of Arts from Saint Ignatius of Loyola University in Baltimore, Maryland. She is licensed to practice in the State of Ohio, U.S. District Court for the Northern District of Ohio, and Sixth Circuit U.S. Court of Appeals. She is a member of the Cleveland Academy of Trial Lawyers, and Erie County, Cleveland Metropolitan, Ohio State, Disability Rights, Education Law and American Bar Associations. She is a Trustee of the Ohio Association for Justice where she is the former Chair of the Ohio Trucking Safety Section, and, within the American Association for Justice, she is the Secretary for the Civil Rights Section and Newsletter Editor for the Railroad Section. She practices in the areas of Civil Rights, Railroad Law, Trucking Crashes, Wrongful Deaths, Class Actions and Insurance Law.

**NOLAN E. MURRAY** joined the firm in 2021 and represents the first member of the fourth generation of Murrays in the law firm. Nolan received his Juris Doctor degree from the Michael E. Moritz College of Law at the Ohio State University in 2018. He earned a Bachelor of Business Administration, magna cum laude, from the University of Notre Dame, in 2014. Nolan is a Certified Public Accountant. He is licensed to practice in the State of Ohio, the U.S. District Court for the Northern District of Ohio, and the Sixth Circuit U.S. Court of Appeals. He is a member of the Ohio State Bar Association and the Erie County Bar Association. His practice areas include Personal Injury, Wrongful Death, Breach of Contract, and Consumer Law.

**WILLIAM H. BARTLE** received a Juris Doctor degree from Case Western Reserve University in 1975. He received a Bachelor of Arts from Hamilton College in 1971. He attended the Albany Law School of Union University. He is licensed to practice law in the State of Ohio, U.S. District Court for the Northern District of Ohio, Sixth Circuit U.S. Court of Appeals, and U.S. Supreme Court. He is a member of the Erie County and Ohio State Bar Associations. He practices in Personal Injury Law, Products Liability Law, Insurance Coverage Contract Interpretation Law, Employment Discrimination Law, and Plaintiffs' Trial Practice.

**DONNA JEAN EVANS** received a Juris Doctor degree magna cum laude from Cleveland State University in 2000. She received a Bachelor of Arts degree cum laude from Marian College in 1975. She is licensed to practice law in the State of Ohio and U.S. District Court for the Northern and Southern Districts of Ohio and the Sixth Circuit. She is a member of the Erie County and Ohio State Bar Associations. She practices in Complex Litigation, Commercial, and Class Actions.

**JOSEPH A. GALEA** received a Juris Doctor degree from Case Western Reserve University in 2012 and a Bachelors of Arts from the University of Florida as a National Merit Scholar in 2008. He is licensed to practice law in the State of Ohio, the U.S. District Court for the Northern District of Ohio, and the U.S. Court of Appeals for the Sixth Circuit. He is a member of the Erie County and Ohio State Bar Associations, the Ohio Association for Justice, and the American Association for Justice. He is the Secretary of the Erie-Huron Joint Certified Grievance Committee and a commissioner on the City of Sandusky Planning Commission. He has prosecuted attorney discipline cases to the Ohio Board of Professional Conduct. He practices in Commercial and Complex Litigation, Personal Injury, Railroad Litigation, and Employment Litigation.

**MATTHEW R. JANACK** received a Juris Doctor degree from the University of Toledo in 2019 and a Bachelor of Arts in Political Science from the University of Akron. He received the Judge James Carr Writing Award in 2019 and is a member of the Ohio State and Erie County Bar Associations.

Murray & Murray has a very active appellate practice, including a total of over 50 published cases before the Ohio Supreme Court and over 100 published decisions in Ohio. These cases frequently include issues of great social and public importance. Murray & Murray attorneys appear regularly in the Supreme Court of the State of Ohio, appellate districts throughout the State of Ohio, U. S. District Courts, and U.S. Courts of Appeals.

Our firm has embraced technologies that maintain a lawyer's competitive edge. The professionalism of the lawyers at Murray & Murray has allowed the firm to enjoy relationships with opposing counsel that also work for the benefit of the respective clients by speeding litigation, lowering costs and reducing some of the less productive aspects of modern litigation.

The experience of Murray & Murray in class action work has been extensive. Murray & Murray has been actively involved in class litigation almost 50 years. Examples of some of the cases include:

- *Biechele v. Norfolk & Western Railway Co.*, 309 F.Supp. 354 (N.D. Ohio 1969) (environmental)
- *Nemitz v. Norfolk & Western Railway Co.*, 404 U.S. 37, 30 L. Ed. 2d 198, 92 S. Ct. 185, 62 Ohio Op. 2d 29, 78 L.R.R.M. 2721; 66 Lab. Cas. (CCH) ¶12, 183 (1971) (union employee wages)
- *Manning v. Int'l Union and General Motors*, 466 F.2d 812 (C.A. 6, 1972) (Title VII)

- *Raschaks v. General Motors*, 9 Fair Empl. Case No. 1406 (N.D. Ohio 1973) (employment)
- *Frank v. Vulcan Materials Co.*, C.A. No. E-81-16 (Erie Co. Ohio 1981) (environmental)
- *Frazier v. Gold Bond Building Products Co.*, Sandusky County Case No. 79-CV-185 (Ohio 1981) (environmental)
- *Clark v. Pfizer, Inc.*, C.A. No. S-84-7 (Sandusky Co. Ohio 1984) (environmental)
- *Sally V. Neff, et al. v. Celanese Piping Systems, et al.*, Franklin County Court of Common Pleas Case No. 85-CV-04-2279 (Ohio)
- *Harrell v. Marathon Oil Co.*, 32 Ohio St.3d 397, 513 N.E.2d 776 (1987) (securities)
- *Nickels, et al. v. Cedar Point, Inc., et al.*, Erie County Court of Common Pleas Case No. 45323 (Ohio 1987) (securities)
- *Gergely, et al. v. VanVoorhis, et al.*, Erie County Court of Common Pleas Case No. 87-CV-469 (Ohio) (securities)
- *Warner, et al. v. Waste Management, Inc., et al.*, 36 Ohio St. 3d 91, 521 N.E.2d 1091 (1988) (environmental)
- *Pippert v. Akron Coca Cola Bottling*, Erie County Court of Common Pleas Case No. 88-CV-070 (Ohio)
- *Limberios v. Vermilion River Resorts*, Lorain County Court of Common Pleas Case No. 88-CV-101212 (Ohio 1988) (consumer)
- *In re Trustcorp Securities Litigation*, U.S. Dist. Court Case No. 3:89CV7139 (N.D. Ohio 1990) (securities, fraud-on-the-market)
- *Schiller v. BancOhio National Bank*, Franklin County Court of Common Pleas Case No. 90CVH07-5340 (Ohio) (duties of indenture trustee)
- *Dowling v. Narragansett Capital Corp.*, 735 F. Supp. 1105 (D.R.I. 1990) (proxy fraud; investment banking negligence in connection with corporate takeover)
- *Bettis v. Ruetgers-Nease*, U.S. Dist. Court Case No. 4:90-CV-0502 (N.D. Ohio 1990) (environmental contamination)
- *Glatz, et al. v. Dublin Securities, Inc., et al.*, Erie County Court of Common Pleas Case No. 91-CV-274 (Ohio 1991) (state securities law)
- *Kitchen v. Aristech Chemicals*, 769 F.Supp. 254 (S.D. Ohio 1991) (environmental contamination)
- *Glatz, et al. v. Beaman, et al.*, Erie County Court of Common Pleas Case No. 92-CV-058 (Ohio 1992) (state securities law)
- *Polikoff v. Adam*, 67 Ohio St.3d 100 (1993) (shareholder derivative suit)
- *Miner, et al. v. Figgie, et al.*, Lake County Court of Common Pleas Case No. 93-CV-001575, C.A. No. 94-L-069 (Ohio 1993) (derivative stockholder litigation)
- *Vettel v. Bank One Sidney*, Erie County Court of Common Pleas Case No. 93-CV-155 (Ohio 1993) (consumer)
- *McConocha v. Blue Cross Blue Shield of Ohio*, U.S. Dist. Court Case No. 3:93-CV-7534

- (N.D. Ohio 1993) (consumer insurance, 80/20 co-pay)
- *Shaver v. Standard Oil Co.*, 89 Ohio App.3d 52 (1993) (consumer; antitrust)
  - *Kreidler v. Western Southern Ins. Co.*, Erie County Court of Common Pleas Case No. 95-CV-157 (Ohio 1995) (insurance fraud)
  - *Smolik v. The Lincoln Electric Company*, Cuyahoga County Court of Common Pleas Case No. 288514 (Ohio 1996) (executive bonus comp plan)
  - *In Re Corrpro Securities Litigation*, U.S. Dist. Court Case No. 5:95 CV 1223 (N.D. Ohio 1997) (securities)
  - *Cope, et al. v. Metro Life Ins. Co.*, 82 Ohio St.3d 426 (1998)(establishing the ability to sue for uniform written misstatements in order to satisfy the Rule 23 predominance requirement)
  - *Shaver v. The Standard Oil Company*, 135 Ohio App.3d 242 (Huron Co. 1999)(breach of fiduciary duty)
  - *Everett v. Verizon Wireless, et al.*, No. 3:00-CV-7763 (N.D. Ohio 2000) (consumer)
  - *Gomez v. Towne Bancorp*, 129 F.Supp.2d 1116 (N.D. Ohio 2000) (breach of contract by stock escrow agent in connection with a best efforts securities offering)
  - *Toledo Blade Pension Plan v. Investment Performance Services*, No. 3:04-CV-7123 (N.D. Ohio 2004) (breach of contract)
  - *Miller, et al. v. Volkswagen of America*, Erie County Court of Common Pleas Case No. 2004-CV-558 (Ohio 2004) (consumer/automobile protection)
  - *Hepp, George et al. v. Michael Brown et al.*, Seneca County Court of Common Pleas Case No. 52964 (Ohio 2004) (fraudulent sale of viatical settlements)
  - *NicSand, Inc. v. 3M Co.*, 507 F.3d 442, 2007 U.S. App. LEXIS 24270, 2007 FED App. 0424P (6th Cir.), 2007-2 Trade Cas. (CCH) P75,908 concerning the illegality of exclusive dealing agreements those foreclose significant percentages of the retail market)
  - *Schemmer, et al. v. ChartOne, Inc.*, N.D. Ohio No. 1:05-CV-02923, 2007 WL 1822274 (fraud)
  - *MPW Industrial Services Group, Ltd.* U.S. Dist. Court Case No. 2:07-cv-442 (S.D. Ohio 2007) (proxy and 10b-5 class action securities fraud)
  - *Firelands Reg. Med. Ctr. v. Jeavons*, 2008 WL 4408600 (Erie County, Ohio) (uninsured protection)
  - *Midland Funding LLC v. Brent, et al.*, 3:08-CV-01434, 2009 WL 3437243 (N.D. Ohio 2008) (consumer credit)
  - *Molesky, et al. v. State Collection & Recovery Services, Inc.*, N.D. Ohio No. 3:12-cv-2639 (F.D.C.P.A.)
  - *Polinsky v. Community Health Partners Regional Health Systems*, U.S. District Court Case No. 1:10-CV-02544 (N.D. Ohio 2010) (F.D.C.P.A. case)
  - *Streeter v. Mercy Health System-Northern Region*, CI 200903601 (Lucas Co., OH) (consumer)

- *Anderson v. Barclays Capital Real Estate, Inc. d.b.a. HomEq Servicing*, U.S. District Court Case No. 3:09-CV-2335 (N.D. Ohio 2009) (consumer)
- *Stammco LLC v. United Telephone Co. of Ohio*, 125 Ohio St.3d 91 (Ohio 2010) (telephone cramming)
- *Pevets v. Crain Communications*, 2011-Ohio-2700 (Ohio 6th Dist. 2011) (breach of contract)
- *Franklin v. Midland Funding, LLC*, 2011 U.S. Dist LEXIS 89919 (N.D. Ohio 2011) (F.D.C.P.A.)
- *Martha Vassalle, et al. v. Midland Funding LLC, et al.*, U.S. District Court Case No. 3:11-cv-0096 (N.D. Ohio 2011) (debt collection case F.D.C.P.A.)
- *Baker v. American Greetings Corp.*, N.D. Ohio No. 1:12-cv-00065 (company owned life insurance (COLI) placed without knowledge or consent)
- *Johnson v. Midland Credit Management, Inc.*, Case No. 1:05-CV-1094 (N.D. Ohio, December 12, 2013) (F.D.C.P.A.)
- *Arlington Video, Inc. v. Fifth Third Bancorp*, 515 Fed. Appx 426 (6th Cir. 2013)
- *Oatman v. InfoCision, Inc., et al.*, 2013 U.S. Dist. LEXIS 106453 (N.D. Ohio 2013) (telemarketing)
- *Fowler, et al. v. ABJ Equipfix, LLC*, U.S. District Court Case No. 3:11-CV-2251 (N.D. Ohio 2013) (employment)
- *PNC National Bank Association v. Mark A. Stuckey, et al.* Erie County Court of Common Pleas Case No. 2013-CV-0634 (Ohio) (excess forced placement of property insurance)
- *Sonia Filby, et al. v. Windsor Mold USA, Inc.*, U.S. District Court Case No. 3:13-CV-01582 (N.D. Ohio 2013) (employment)
- *Jerry Hunt, et al. v. YRC Worldwide, Inc., et al.*, U.S. District Court Case No. 2:13-cv-993 (S.D. Ohio 2013) (employment)
- *Charles Johnson, et al. v. Ford Motor Company*, U.S. District Court Case No. 3:13-cv-6529 (S.D. West Virginia 2013) (product)
- *George Ressler v. Wallace Ackley, et al.*, U.S. District Court Case No. 2:16-cv-86 (S.D. Ohio 2016) (landlord/tenant)
- *James Miller v. Peggybank.com LLC, et al.*, U.S. District Court Case No. 1:16-CV-1011 (N.D. Ohio 2016) (consumer fraud)
- *E. Velasquez, et al. v. Quesadillas, Inc.*, Erie County Court of Common Pleas Case No. 17-CV-007 (Ohio) (employment)
- *Zehentbauer Family Land, LP v. Chesapeake Expl., L.L.C.*, 935 F.3d 496, 2019 U.S. App. LEXIS 24289, 2019 FED App. 0198P (6th Cir.), 104 Fed. R. Serv. 3d (Callaghan) 867, 2019 WL 3820259



Miller Law LLC is a litigation boutique law firm which unites the talents of attorneys with combined experience in a wide array of complex civil litigation. The foundation of the firm is the ability to handle large complex litigation and sophisticated class actions in a variety of practice areas in federal and state courts across the country.

Our long history of class action litigation experience covers a varied and broad range of industries including pharmaceuticals, telecommunications, commodities and securities.

Miller Law LLC's fees are contingent on our success in achieving a favorable result for our clients and are reviewed and awarded by the court. Because we advance the costs of the litigation and our fees are earned on a predominately contingent basis, we continuously monitor and carefully evaluate each case throughout the litigation and understand the need to be efficient. This gives us the confidence and flexibility to employ creative thought in the decision-making process at every stage of the litigation. The skill and experience of the Miller Law attorneys has been recognized repeatedly by their peers, at whose request we have served as lead counsel, co-lead counsel, and *liaison*, and by courts, which have appointed our attorneys to leadership positions in complex multi-district or consolidated litigation in securities, commodities, consumer and antitrust class actions where we have been responsible for many outstanding recoveries and precedent-making decisions.

***Some of the significant cases in which Miller Law attorneys have been prominently involved include:***

#### **ANTITRUST**

***Bayside Rubber & Prods., Inv. v. Bridgestone Indus. Prod. Am. Inc.***, 07-21784 (S.D. Fla.). This class action alleges that defendant-manufacturers of flexible rubber hose used to transport oil between ships, terminals, buoys and tanks, among other things, conspired to fix the prices of the marine hoses.

***Brand-Name Prescription Drug Indirect Purchaser Actions.*** Coordinated antitrust actions against the major pharmaceutical manufacturers in ten states and the District of Columbia. The actions were brought under state law on behalf of indirect purchaser consumers who obtained brand name prescription drugs from retail pharmacies. In 1998, the parties agreed to a multi-state settlement in the amount of \$64.3 million, which was allocated among the actions.

***Caldwell v. Matsushita Elec. Indus. Co., Ltd.***, 07-6303 (N.D. Cal.). Miller Law LLC, along with co-counsel, represents a plaintiff who seeks damages and injunctive relief for alleged antitrust violations relating to flat screens.

***Garabedian v. LASMSA Limited Partnership***, No. 721144 (Superior Court, Orange County, Cal.). Class action under California's Cartwright Act which alleged price-fixing of cellular telephone service in the Los Angeles area market. The court granted final approval to two settlements that provided \$165 million of in-kind benefits.

***In re Aftermarket Filters Antitrust Litig.***, MDL No. 1957, 08-4883 (N.D. Ill.). The complaint alleged a conspiracy among the Defendants and their co-conspirators to fix prices and to engage in other unlawful practices intended to raise, maintain, and/or stabilize prices for replacement motor vehicle oil, fuel and engine air filters ("Filters"). The firm serves as *liaison* counsel for the Indirect Purchasers. The Court has granted final approval of a settlement of Indirect Purchasers.

***In re Air Cargo Shipping Servs. Antitrust Litig.***, 06-MD-1775 (E.D. N.Y.). Miller Law LLC represents plaintiffs who seek recovery from air cargo shipping provider-defendants that it is alleged participated in a global conspiracy to fix prices charged for these shipping services at *supra*-competitive levels, in violation of the federal antitrust laws.

***In re Airline Ticket Commission Antitrust Litig.***, MDL No. 1058 (D. Minn.). Antitrust class action on behalf of travel agents against the major airlines for allegedly fixing the amount of commissions payable on ticket sales. The action settled for \$87 million. *See* 953 F. Supp. 280 (D. Minn. 1997).

***In re Automotive Parts Antitrust Litig., (In re Instrument Panel Clusters Case)***, 12-MD-02311 (E.D. MI). Miller Law LLC represents direct purchaser plaintiffs.

***In re Cellular Phone Cases***, Coordination Proceeding No. 4000 (Superior Court, San Francisco County, Cal.). Class action under California's Cartwright Act, which alleged price-fixing of cellular telephone service in the San Francisco area market. The \$35 million in-kind benefits to the Class was granted final approval.

***In re Cathode Ray Tube (CRT) Antitrust Litig.***, MDL 1917, 07-5944-SC (N.D. Cal.). The antitrust class action complaint contains allegations of price fixing of Cathode Ray Tubes and Cathode Ray Tube Products including those used in televisions, computer monitors and other devices.

***In re Liquid Aluminum Sulfate Antitrust Litig.***, 16-MD-02687 (D. NJ). Marvin Miller, as court-appointed, co-lead counsel for a class of indirect purchasers, successfully obtained final approval of a \$33 million settlement package for the class stemming from alleged price-fixing and bid-rigging of liquid aluminum sulfate, a water treatment chemical. The \$33 million settlement likely exceeded one hundred percent of the estimated, aggregated treble damages sustained by the class.

***In re Lithotripsy Antitrust Litig.***, No. 98 C 8394 (N.D. Ill.). Antitrust class action arising out of alleged stabilization of urologist fees in the Chicago metropolitan area.

***In re Photochromic Lens Antitrust Litig.***, MDL 2173 (M.D. Fla.). Miller Law LLC represents an Illinois client in this antitrust case.

***In re: Polyurethane Foam Antitrust Litigation***, 10 MDL 2196 (NDOH). This antitrust class action seeks to recover damages sustained by indirect purchasers of polyurethane foam as a result of

defendants' agreements to fix the prices and allocate customers for flexible polyurethane foam which is a major component of bedding, furniture and other products. Marvin Miller was appointed Lead Counsel for the Indirect Purchasers. On January 27, 2016, the Court granted final approval of nine settlements valued at \$151,250,000.

***In re Potash Antitrust Litig. No. II***, MDL No. 1996, 08-6910 (N.D.Ill.). This case is brought on behalf of a class of plaintiffs who indirectly purchased potash products in the United States from one or more named Defendants between July 1, 2003 and the present. Plaintiff alleges, that in order to maintain price stability and increase profitability, Defendants conspired and combined to fix, raise, maintain, and stabilize the prices for potash that was sold in the United States and that the Defendants exchanged sensitive, non-public information about prices, capacity, sales volumes, and demand; allocated market shares, customers and volumes to be sold; and coordinated on output, including the limitation of production, to further and enact the price fixing conspiracy. On November 3, 2009, the Court denied in part Defendants' motion to dismiss the class action complaint. The Seventh Circuit en banc panel affirmed the District Court's denial of Defendants' motion to dismiss. Mr. Miller was appointed by the Court and serves as Interim Lead Counsel.

***In re: Text Messaging Antitrust Litig.***, 08-7082 (N.D.Ill.). The Complaint in this Multidistrict Litigation seeks relief against the major cellular service providers because of alleged price fixing of text messaging charges. Mr. Miller has been appointed to the Plaintiffs' Steering Committee.

***Kleen Products LLC, et al. v. Packaging Corp. of America, et al.***, 10 C 5711 (N.D. Ill.). Nationwide Sherman Act class action for direct purchasers involving price-fixing and supply restriction claims against the major integrated producers of containerboard and corrugated products.

***Lobatz v. AirTouch Cellular***, 94-1311 BTM (AJB) (S.D. Cal.). Class action alleging price-fixing of cellular telephone service in San Diego County, California. The court approved settlements of \$8 million in cash and other benefits.

***Painters District Council No. 30 Health and Welfare Fund v. Evanston Northwestern Healthcare***, 08-2541 (N.D. Ill.). Defendant Evanston Northwestern Healthcare is being sued for inflated prices for healthcare services in violation of antitrust laws.

***Supreme Auto Transport LLC v. Arcelor Mittal***, 08- 5468 (N.D. Ill.). This indirect purchaser class action alleges that ArcelorMittal USA and others conspired to illegally price fixing of steel products sold to consumers and to artificially restrict the supply of steel products in the United States. Mr. Miller was appointed Interim Co-Lead Counsel.

***Yoly Industrial Supply v. Horizon Lines, Inc.***, 03:08-CV-434-J-32HTS (M.D.Fla.). Complaint alleges antitrust violations by ocean shippers to raise, fix, peg, maintain or stabilize prices for Ocean Cabotage in the Puerto Rico trade.

## PHARMACEUTICAL ANTITRUST

***In re Actos Antitrust Litig.***, (S.D.N.Y.) Miller Law LLC represents a Third-Party Payor Union Health and Welfare Fund in this indirect purchaser antitrust action.

***In re Aggrenox Antitrust Litig.***, (D. Ct.) Miller Law LLC and the other co-lead counsel for the End Payor Class were granted final approval of a \$54 million settlement, July 2018, thereby settling this antitrust action seeking treble damages arising out of the defendants' unlawful exclusion of generic substitutes from the market.

***In re Cardizem CD Antitrust Litig.***, MDL No. 1278 (E.D. Mich.). Multi-district class action on behalf of purchasers of Cardizem CD, a brand-name heart medication manufactured and marketed by Hoechst Marion Roussel, Inc. (now merged into Aventis Pharmaceuticals, Inc.) Plaintiffs alleged that an agreement between HMR and generic manufacturer Andrx Corp. unlawfully stalled generic competition. The \$80 million settlement for the benefit of third-party payors and consumers was granted final approval. *In re Cardizem CD Antitrust Litig.*, 218 F.R.D. 508 (E.D. Mich. 2003), *appeal dismissed*, 391 F.3d 812 (6th Cir. 2004).

***In re Effexor XR Antitrust Litig.***, 11-5590 (D.N.J.). Miller Law LLC, along with co-counsel, represents indirect purchaser opt-out plaintiffs in this antitrust action against Wyeth, Inc., Wyeth Pharmaceuticals, Inc., Wyeth-Whitehall Pharmaceuticals and Wyeth Pharmaceuticals Company

***In re Flonase Antitrust Litig.***, 08-3301 (E.D. Pa.). Plaintiffs allege that Defendants engaged in anticompetitive activities and abuse of the citizen petition process to maintain their monopoly profits in the fluticasone propionate market. Marvin Miller and Lori Fanning have been appointed Co-Lead Counsel for the Indirect Purchaser Class. An Indirect Purchaser Class was certified on June 18, 2012. Judge Brody granted final approval of a \$35 million settlement.

***In re Lidoderm Antitrust Litigation***, 14-md-2521-WHO (N.D. CA). Miller Law serves as an executive committee member of the End-Payor pharmaceutical antitrust litigation.

***In re Loestrin Antitrust Litig.***, (D. R.I.). Miller Law LLC is co-lead counsel for Indirect Purchaser Plaintiffs in this antitrust action seeking treble damages arising out of the defendants' unlawful exclusion of generic substitutes from the market. A Third Party Payor Class was certified and the case is set for trial in January, 2020.

***In re Lorazepam & Clorazepate Antitrust Litig.***, MDL 1290 (D.D.C.). This multi-district class action arose out of an alleged scheme to corner the market on the active pharmaceutical ingredients necessary to manufacture generic clorazepate and lorazepam tablets. After cornering the market on the supply, defendants raised prices for generic clorazepate and lorazepam tablets by staggering amounts (*i.e.*, 1,900% to over 6,500%) despite no significant increase in costs. On February 1, 2002, Judge Thomas F. Hogan approved a class action settlement on behalf of consumers, state attorneys general and third-party payors in the aggregate amount of \$135 million. *See* 205 F.R.D. 369 (D.D.C. 2002).

***In re Niaspan Antitrust Litig.***, (E.D. Pa.) Mr. Miller is co-lead counsel for Indirect Purchaser Plaintiffs in this antitrust action seeking treble damages arising out of the defendants' unlawful exclusion of generic substitutes from the market for this cholesterol drug.

***In re Relafen Antitrust Litig.***, 01-12239 (D. Mass.). The United States District Court for the District of Massachusetts granted final approval to a \$75 million class action settlement for the benefit of consumers and third-party payors who paid for branded and generic versions of the arthritis medication Relafen.

***In re Solodyn Antitrust Litig.***, (D. Mass.). Mr. Miller is on the Executive Committee in this Indirect Purchaser antitrust action where a \$40 settlement was approved in July 2018. The action arose out of the defendants' unlawful exclusion of generic substitutes from the market for oral antibiotics for the treatment of acne.

***In re Suboxone Antitrust Litig.***, (E.D. Pa.). In this Indirect Purchaser antitrust action seeking treble damages arising out of the defendants' unlawful exclusion of generic substitutes from the market, Mr. Miller serves as co-lead counsel for the putative Indirect Purchaser Class. Class was certified on

***In re Synthroid Marketing Litig.***, MDL No. 1182 (N.D. Ill.). This multi-district action arises out of alleged unlawful activities with respect to the marketing of Synthroid, a levothyroxine product used to treat thyroid disorders. Final approval of a settlement in the amount of \$87.4 million plus interest. See 188 F.R.D. 295 (N.D. Ill. 1999) was upheld on appeal. See 264 F.3d 712 (7th Cir. 2001).

***In re Warfarin Sodium Antitrust Litig.***, MDL 98-1232 (D. Del.). A multi-district class action on behalf of purchasers of Coumadin, the brand-name warfarin sodium manufactured and marketed by DuPont Pharmaceutical Company. Plaintiffs alleged that the defendant engaged in anticompetitive conduct that wrongfully suppressed competition from generic warfarin sodium. The case settled for \$44.5 million which was affirmed on appeal. See *In re Warfarin Sodium Antitrust Litig.*, 212 F.R.D. 231 (D. Del. 2002).

***In re Wellbutrin XL Indirect Purchaser Antitrust Litig.***, 08-2433 (E.D. Pa.), ***Painters District Council No. 30 Health and Welfare Fund v. Biovail Corp.***, 08-2688 (E.D. Pa.). Plaintiff alleges that Defendants engaged in sham litigation and petitioning and anticompetitive agreements to maintain their monopoly profits in the bupropion HCl extended release market.

***In re Zetia Antitrust Litig.***, 2:18-md-02836 (S.D.N.Y.). Mr. Miller is co-lead counsel for the End Payor Plaintiffs in this antitrust action seeking treble damages arising out of the defendants' unlawful exclusion of generic substitutes from the market.

***Painters District Council No. 30 Health and Welfare Fund and Bluecross Blueshield Tennessee, Inc. v. King Pharma, Inc. and Mutual Pharma. Co., Inc.*** (a.k.a. ***In re Skelaxin Antitrust Litig***) (E.D.TN.) The firm represents opt-out indirect purchasers in this antitrust action seeking treble damages arising out of the defendants' unlawful exclusion of generic substitutes from the market for metaxalone, a prescription muscle relaxant.

***Ryan-House v. GlaxoSmithKline PLC***, No. 02-442 (E.D. Va.). Plaintiffs allege that GSK, which makes Augmentin, misled the United States Patent Office into issuing patents to protect Augmentin from competition from generic substitutes. The case was resolved and the court approved a \$29 million settlement for the benefit of consumers and third-party payors. *Ryan-House, et al v. GlaxoSmithKline, PLC, et al.*, No. 02-442, (January 10, 2005, E.D. Va.)

***Sergeants Benevolent Association Health & Welfare Fund v. Forest, et.al. (Namenda)***, No. 15-cv-6549 (CM)(RWL) Mr. Miller and Ms. Fanning of Miller Law LLC are two of the co-lead counsel for the End Payor Plaintiffs in this antitrust action seeking treble damages arising out of the defendants' unlawful exclusion of generic substitutes from the market through allegations of product hop and reverse payment.

## COMMODITIES

***In re Commodity Exchange, Inc., Silver Futures and Options Trading Litig.***, MDL No. 2213 (S.D.N.Y.) This class alleges that the defendants intentionally manipulated the price of silver futures options contracts in violation of the Commodities Exchange Act.

***In re: Dairy Farmers Of America, Inc. Cheese Antitrust Litig.***, MDL No. 2031, Master File No. 09-03690 (N.D.Ill.) This action alleges that Defendants conspired and agreed to fix or manipulate the prices of Chicago Mercantile Exchange Class III milk futures contracts, CME Cheese Spot Call contract.

***In re First Commodity Corp. of Boston Customer Account Litig.***, MDL-713 (D. Mass). Class actions alleging violation of the anti-fraud provisions of the Commodity Exchange Act. The action settled for \$5.3 million. *See* 119 F.R.D. 301 (D. Mass. 1987).

***In re Int'l Trading Group, Ltd. Customer Account Litig.***, No. 89-5545 RSWL (GHKx) (C.D. Cal.). Class action alleging violation of the anti-fraud provisions of the Commodity Exchange Act. The case settled with individual defendants and proceeded to a judgment against the corporate entity. In that phase, the Court awarded the Class a constructive trust and equitable lien over the corporation's assets and entered a \$492 million judgment in favor of the Class.

***In re Soybean Futures Litig.***, No. 89-7009 (N.D. Ill.). A commodities manipulation class action against Ferruzzi Finanziaria, S.p.A. and related companies for unlawfully manipulating the soybean futures market in 1989. In December 1996, the court approved a settlement in the amount of \$21,500,000. *See* 892 F. Supp. 1025 (N.D. Ill. 1995). Mr. Miller served as Co-Lead Counsel for Plaintiffs.

***In re Sumitomo Copper Litig.***, 96- 4584(MP) (S.D.N.Y.). Class action arising out of manipulation of the world copper market. On October 7, 1999, the court approved settlements aggregating \$134,600,000. *See* 189 F.R.D. 274 (S.D.N.Y. 1999). In awarding attorneys fees, Judge Milton Pollack noted that it was the largest class action recovery in the 75 plus year history of the Commodity Exchange Act. 74 F. Supp. 2d 393 (S.D.N.Y. Nov. 15, 1999). Additional reported opinions: 995 F. Supp. 451 (S.D.N.Y. 1998); 182 F.R.D. 85 (S.D.N.Y. 1998). Mr. Miller was appointed by Judge Pollack as Plaintiffs' Co-Lead Counsel.

***Dennison v. BP Corp.***, No. 06-3334 (N.D. Ill.). This class action was commenced to recover damages as a result of defendant's alleged improper conduct in manipulating the price of propane. On February 10, 2010, the Court granted final approval of the \$15,250,000 cash settlement. Mr. Miller serves as Co-Lead Counsel in this consolidated Plaintiffs' class action.

***Kohen, et al. v. Pacific Investment Management Co.***, No. 05-4681 (N.D. Ill.). This class action recovered for alleged violations of the Commodity Exchange Act when the Defendants improperly manipulated the Ten-Year Treasury bonds. On July 31, 2009, the Seventh Circuit Court of Appeals affirmed the decision that this case can proceed as a class action. On May 2, 2011, the Court entered a \$118.75 million judgment in favor of the class. Mr. Miller, at the request of Lead Counsel, served as *liaison* counsel for the Plaintiffs.

***Smith v. Groover***, 77-2297 (N.D. Ill.). A commodities fraud and antitrust class action against the Chicago Board of Trade and several floor traders involving the manipulation of the soybean market through bucketing. The case established that, in the Northern District of Illinois, a plaintiff has an implied private right of action under the Commodity Exchange Act and that an Exchange can be sued for negligence in failing to supervise its members. Mr. Miller was one of Plaintiff=s counsel in this precedent making decision.

## CONSUMER PROTECTION

***Greenes v. Sears Protection Company, et al.***, 15-cv-2546 (N.D. Ill.) – Miller Law LLC is co-lead counsel in this consumer protection action against Sears for breach of their agreements, deceptive practices, and unjust enrichment in which a nationwide class was certified.

**Credit Protection Actions**– This group of class action complaints contains allegations regarding the activities undertaken by various banks throughout the country who market and sell products associated with their credit cards known as “Credit Protect,” “Credit Protector,” “Payment Protector,” “PaymentAid,” “PaymentAid Plus,” and other monikers that all offer similar coverage that is indistinguishable from a contract of credit insurance but not sold as insurance.

***In re Mercedes Benz Tele-Aid Contract Litig.***, MDL No. 1914, No. 07-2720 (D.N.J.). Plaintiffs sought compensatory and other damages for allegations relating to Mercedes Benz’ failure to inform Mercedes vehicle purchasers of Model Years 2002 through 2006 that their analog-only Tele Aid systems would become obsolete and would stop functioning after December 31, 2007. The court granted class certification on April 27, 2009 and approved a settlement on September 9, 2011.

## EMPLOYMENT

***Bergman v. Kindred Healthcare, Inc.***, 10-191 (N.D. Ill). The firm filed this action with co-counsel to recover overtime wages for employees.

***Camilotes v. Resurrection Healthcare and Saint Joseph Hospital***, 10-0366 (N.D.Ill.). This is a nationwide collective action under the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.* (“FLSA”), brought on behalf of a class of plaintiffs whose pay was subject to an unpaid “meal break”, and a statewide class action on behalf of all Illinois citizens to recover all unpaid wages under the Illinois Minimum Wage Law, (“IMWL”).

***DeMarco v. Northwestern Memorial Healthcare and Northwestern Memorial Hospital***, 10-00397 (N.D.Ill.) This is a nationwide collective action under the Fair Labor Standards Act, 29 U.S.C. §201 *et seq.* (“FLSA”), brought on behalf of a class of plaintiffs whose pay was subject to an unpaid

“meal break”, and a statewide class action on behalf of all Illinois citizens to recover all unpaid wages under the Illinois Minimum Wage Law, (“IMWL”).

**Howard v. Securitas Sec. Servs.**, 08-2746 (N.D. Ill.). Miller Law and co-counsel, sought to recover overtime wages for employees. The Court granted class certification in January 2009.

**King v. Heritage Enterprises, Inc.**, 10-3647 (N.D. Ill.) This collective action under the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.* (“FLSA”), was brought on behalf of a class of plaintiffs whose pay was subject to an unpaid “meal break”.

## SECURITIES

**City of Lakeland Employees Pension Plan v. Baxter Int’l Inc.**, 10-06016 (N.D. Ill.) Miller Law LLC serves as liaison counsel in this securities fraud litigation that alleges defendants issued materially false and misleading statements regarding the Baxter’s plasma-derivative products business.

**Lawrence E. Jaffe Pension Plan v. Household Int’l**, 02-5893 (N.D.Ill.). The firm serves as *liaison* counsel and served on the trial team in this securities fraud litigation alleging that Household engaged in a variety of illegal sales practices and improper lending techniques to manipulate publicly reported financial statistics. The case was tried and the jury awarded a verdict in favor of plaintiffs.

**Abrams v. Van Kampen Funds**, Case No. 01-7538 (N.D. Ill.), involving a mutual fund that was charged with improperly valuating its net asset value. After extensive discovery, the case settled for in excess of \$31 million and was granted final approval.

**Central Laborers’ Pension Fund v. Sirva, Inc.**, 04-7644 (N.D. Ill.). A \$53 million settlement was approved in this national securities class action which sought recovery from the defendant for violations of the securities laws because of the alleged failure to disclose to the investing public the true financial condition of the company. Mr. Miller served as Plaintiff’s *liaison* counsel at the request of Lead counsel.

**Danis v. USN Communications, Inc.**, No. 98-7482 (N.D. Ill.). Securities fraud class action arising out of the collapse and subsequent bankruptcy of USN Communications, Inc. The court approved a \$44.7 million settlement with certain control persons and underwriters. Reported decisions: 73 F. Supp. 2d 923 (N.D. Ill. 1999); 189 F.R.D. 391 (N.D. Ill. 1999); 121 F. Supp. 2d 1183 (N.D. Ill. 2000). At the request of Co-Lead Counsel, Mr. Miller served as *liaison* counsel for Plaintiffs.

**In re Archer-Daniels-Midland, Inc. Sec. Litig.**, No. 95-2287 (C.D. Ill.). A class action arising out of the Archer-Daniels-Midland price-fixing scandal. Plaintiffs brought claims for securities law violations which settled for \$30 million.

**In re Baldwin-United Corp. Sec. Litig.**, MDL-581, (S.D.N.Y.). In this early multi-district securities class action, Plaintiffs’ counsel advanced the novel issue of whether Single Premium Deferred Annuities sold by the stock brokerage industry were securities and the sale of approximately \$4.2

billion were in violation of the federal and state securities laws. A \$180 million settlement was obtained was the largest securities class action settlements at the time. In awarding interim counsel fees, Judge Charles Brieant commented "...that plaintiffs' attorneys [including Marvin A. Miller as co-lead counsel] had rendered extremely valuable services with diligence, energy and imagination, and are entitled to just compensation."

***In re Bank One Shareholders Class Actions***, No. 00-880 (N.D. Ill.). In this securities fraud class action against Bank One and certain officers, Judge Milton I. Shadur appointed Mr. Miller to draft the Consolidated Class Action Complaint. At the request of court-appointed lead counsel, Mr. Miller served as Plaintiffs' *liaison* counsel. Judge Shadur subsequently approved a \$45 million settlement.

***In re Caremark Int'l. Inc. Sec. Litig.***, No. 94-4751 (N.D. Ill.). This action arose out of Caremark=s allegedly improper financial arrangements with physicians. A \$25 million settlement concluded the litigation.

***In re Nuveen Fund Litig.***, No. 94-360 (N.D. Ill.). Class action and derivative suit under the Investment Company Act arising out of coercive tender offerings in two closed-end mutual funds.

***In re Prudential Sec. Inc. Ltd. Partnerships Litig.***, MDL 1005 (S.D.N.Y.). A nationwide multi-district class action arising out of Prudential Securities Incorporated's marketing and sale of speculative limited partnership interests. The final settlements produced an aggregate of more than \$132 million for injured investors.

***In re Salton/Maxim Sec. Litig.***, No. 91-7693 (N.D. Ill.). Class action arising out of public offering of Salton/Maxim Housewares, Inc. stock. On September 23, 1994, Judge James S. Holderman (now Chief Judge of the United States District Court for the Northern District of Illinois) approved a multi-million dollar settlement achieved for the class, commenting that "it was a pleasure to preside over [the case] because of the skill and the quality of the lawyering on everyone's part in connection with the case."

***In re Sears, Roebuck and Co. Sec. Litig.***, No. 02-07527 (N.D.Ill.). Sears settled a class action lawsuit for \$215 million in a case brought by shareholders. The case alleged breach of fiduciary duty for failing to prevent improper bankruptcy collection practices under the company's debt reaffirmation agreements. Mr. Miller served as plaintiff's *liaison* counsel in this nationwide securities case.

***In re Telesphere Sec. Litig.***, 89-1875 (N.D. Ill.). In his opinion approving a class action settlement, Judge Milton I. Shadur referred to Marvin A. Miller as "...an experienced securities law class action litigator and who also has 20 years [now 45 years] practice under his belt. This Court has seen the quality of that lawyer's work in other litigation, and it is first-rate." 753 F.Supp. 716, 719 (N.D. Ill. 1990).

***In re VMS Sec. Litig.***, 89-9448 (N.D. Ill.). A securities fraud class action and derivative suit relating to publicly traded real estate investments. The court certified a plaintiff class and subclasses of approximately 100,000 members, 136 F.R.D. 466 (N.D. Ill. 1991) and approved a class and derivative settlement worth \$98 million.

***Garden City Employees' Retirement System v. Anixter Int'l Inc.***, 09-5641 (N.D. Ill.) This is a securities class action on behalf of purchasers of Anixter common stock during the class period seeking to pursue remedies under the Securities Exchange Act of 1934 (the "Exchange Act").

***Horton v. Merrill Lynch, Pierce Fenner & Smith, Inc.***, No. 91-276-CIV-5-D (E.D.N.C.). A multi-million dollar settlement was approved in this securities fraud class action arising out of a broker's marketing of a speculative Australian security. The Court stated that "the experience of class counsel warrants affording their judgment appropriate deference in determining whether to approve the proposed settlement." 855 F. Supp. 825, 831 (E.D.N.C. 1994).

***Hoxworth v. Blinder Robinson & Co.***, 88-0285 (E.D. Pa.). A securities fraud and RICO class action resulting from alleged manipulative practices and boiler-room operations in the sale of "penny stocks." Judgment in excess of \$70 million was entered and that judgment was affirmed by the Third Circuit Court of Appeals, 980 F.2d 912 (3rd Cir. 1992). *See also Hoxworth v. Blinder*, 74 F.3d 205 (10th Cir. 1996).

***Jones v. Corus Bancshares, Inc.***, 09-1538 (N.D.Ill.) Miller Law LLC served as Liaison Counsel in this securities fraud action against Corus.

***Makor Issues & Rights & Ltd. v. Tellabs***, 02-4356 (N.D. Ill.). This securities fraud action alleges that Tellabs, a global supplier of optical networking, broadband access and voice-quality enhancement solutions to telecommunications carriers and internet service providers engaged in wrongdoing concerning certain of its core products. Mr. Miller serves as Liaison Counsel. The case was argued before the United States Supreme Court and created precedent for the pleading standard in securities cases. *Tellabs v. Makor Issues & Rights, Ltd.*, 127 S.Ct. 2499 (2007). The court granted class certification on February 24, 2009. The court granted final approval of a settlement on July 26, 2011.

***Mirsky v. Ulta Salon, Cosmetics and Fragrance Inc.***, 07-7083 (N.D. Ill.). As alleged in the complaint, defendants issued materially false and misleading statements in connection with the IPO concerning ULTA's financial condition and the levels of its selling, general and administrative expenses inventories. The court approved settlement on November 16, 2009.

***Silverman v. Motorola***, 07-4507 (N.D. Ill.). Miller Law LLC serves as Liaison Counsel in this securities fraud action against Motorola—one of the world's largest producers of wireless handsets. The court granted class certification on August 25, 2009. The court approved a \$200 million settlement.

***Plumbers and Pipefitters Local Union No. 630 Pension-Annuity Trust Fund v. Allscripts-Misys Healthcare Solutions, Inc.***, 09-4726 (N.D. Ill.) This is a securities class action on behalf of purchasers of Allscripts-Misys Healthcare Solutions, Inc. common stock during the class period seeking to pursue remedies under the Securities Exchange Act of 1934 (the "Exchange Act").

## INTELLECTUAL PROPERTY

***Acco Brands USA v. PC Guardian Anti-Theft Products, Inc.***, No. 06-7102 (N.D. Ill.). The firm represented one of the named defendants in this alleged patent infringement case.

***Baxter Int'l v. McGaw, Inc.***, (N.D. Ill.). Mr. Miller, together with co-counsel, successfully represented the Defendant in this patent infringement case and served as a member of the trial team which won a jury verdict of non-infringement of three needleless injection sites and also obtained a finding that the Plaintiff had engaged in inequitable conduct on two of the patents. The Court also found that the Plaintiff engaged in inequitable conduct. The decision was affirmed by the Court of Appeals Federal Circuit. (96-1329, -1342, 97-1331, -1350 decided June 30, 1998).

***Golden Bridge Technology v. AT&T Corp., et al.***, 10-428, 11-165 (consolidated) (D. Del.) represented plaintiff in this multi-defendant patent infringement litigation.

## SHAREHOLDER AND DERIVATIVE ACTIONS

***Kimberly Petersen, derivatively and on behalf of the Allstate Corp.***, No. 18-cv-03598 (N.D. Ill.) The firm serves as Liaison Counsel in this derivative action.

***Murphy v. CDW Corp.***, 07-3033 (N.D. Ill.). The firm represents a class of the public shareholders of CDW Corporation who sued the company and its directors for breach of fiduciary duties in connection their acceptance of the \$7.3 billion buyout. The complaint alleges, among other matters, that the price does not reflect the true value of the company to its shareholders. The firm has been appointed *liaison* counsel for the class. The Court entered an order approving the settlement on May 7, 2008.

***Scott Wells, derivatively on behalf of Treehouse Foods, Inc.***, 2016-CH-16359, Circuit Court of Cook County. The firm is Liaison Counsel in this derivative action.

## OTHER REPRESENTATIVE CASES

***In re: Ameriquest Mortgage Co. Mortgage Lending Practices Litigation***, MDL No. 1715, (N.D. Ill.). This large multidistrict national class action against this “subprime” lender, challenges Ameriquest’s alleged predatory lending practices, “bait and switch”, faulty appraisals, improper late fees and hidden costs, among other practices, and seeks damages and remedial relief on behalf of borrowers. At Plaintiffs’ Co-lead counsel’s request, Mr. Miller serves as *liaison* counsel.

***In re Sears, Roebuck and Co., ERISA Litig.***, 02-8324 (N.D. Ill.). Mr. Miller served as plaintiff’s liaison counsel in this nationwide action. Sears settled this ERISA action for \$14.5 million in cash. The case alleged breaches of fiduciary duties in contravention of the Employee Retirement Income Security Act of 1974. The plan participants will directly benefit from the resulting settlement.

***PrimeCo Personal Communications, L.P. v. Ill. Commerce Comm’n.***, No. 98 CH 5500 (Circuit Court of Cook County, Ill.). This class action sought recovery of an unconstitutional infra-structure

maintenance fee imposed by municipalities on wireless telephone and pager customers in the State of Illinois. The court granted final approval to a settlement of more than \$31 million paid by the City of Chicago. Subsequently, the court certified a settlement class of all wireless users in the State of Illinois and a Defendant Class of municipalities throughout the state which collected Infrastructure Maintenance Fees from wireless users and approved a settlement for the Class of in excess of \$11 million. Mr. Miller served as a Co-lead counsel for Plaintiffs in this novel class action.

**Rodriguez v. CenturyTel, Inc.**, 09-50006 (N.D. Ill.). In this FLSA action, Miller Law LLC recovered overtime and other wages for employees. The Court approved a settlement in September, 2009.

### **DEFENDANT REPRESENTATIONS**

In addition to our representation of plaintiffs, Miller Law attorneys have also represented defendants in complex class actions and derivative suits, including *In re Del-Val Financial Corp. Sec. Litig.*, MDL-872 (S.D.N.Y.); *In re Kenbee Limited Partnership Litig.*, No. 91-2174 (D.N.J.); *Weiss v. Winner's Circle of Chicago, Inc.*, No. 91-2780 (N.D. Ill.); *Levy v. Stern*, No. 11955 (New Castle County, Delaware). The court's decision in *In re Del-Val Financial Corp. Sec. Litig.*, 868 F. Supp. 547 (S.D.N.Y. 1994) resulted in a significant extension of the law concerning partial settlements of securities fraud class actions.

In the area of Intellectual Property, Miller Law attorneys represented McGaw, Inc. in an alleged patent infringement jury trial. The jury found in favor of our client and the decision was affirmed by the Federal Circuit. (96-1329, -1342, 97-1331, -1350 decided June 30, 1998); and represent Elizabeth Arden, Inc. for alleged violation of improperly extending patents, No. 10 C 3491) (N.D. Ill.). Mr. Miller also represents defendant PSMJ Resources, Inc. in the *Modern Trade Communications, Inc. v. PSMJ Resources, Inc.*, 10-5380 (N.D.Ill.)

### **Individual Biographies**

**MARVIN A. MILLER** has 47 years of commercial and class action litigation experience. Mr. Miller has been lead or co-lead counsel across the full spectrum of industries (airline, cell and telephone, financial services, Internet and technology, manufacturing, pharmaceuticals, retailing, stock broker and exchange, and utilities) and practices (antitrust, consumer and investor fraud and protection, employment and employee benefits, insurance, shareholder derivative actions) that encompasses Miller Law LLC's practice. Mr. Miller holds an AV Pre-eminent (highest) rating from Martindale-Hubbell. Each year from January 2007 through 2013 and 2015, 2016, and 2017, Law & Politics and the publishers of Chicago Magazine named Mr. Miller an Illinois Super Lawyer. Super Lawyers are the top 5 percent of attorneys in Illinois, as chosen by their peers and through the independent research of Law & Politics. Mr. Miller has also served as a panelist for Practising Law Institute.

Prior to founding Miller Law LLC, Mr. Miller was a co-founder of another national class action law firm. Throughout his career in class action jurisprudence, Mr. Miller has represented shareholders and investors in high profile and precedent-setting class action litigation involving such companies as Continental Illinois National Bank and Trust and Baldwin United Corporation. He was lead

attorney in *Smith v. Groover*, in which he represented clients against the Chicago Board of Trade and several of its traders; the decision in the case, later affirmed, *sub. nom.*, in *Curran v. Merrill Lynch Pierce Fenner & Smith*, by the U.S. Supreme Court, established the precedent that an individual has an implied private right of action to sue an Exchange for negligence in failing to supervise its members.

Mr. Miller is a 1970 graduate of Illinois Institute of Technology-Chicago-Kent College of Law, where he was a member of the Editorial Board of the *Chicago-Kent Law Review*. He received his undergraduate degree from Hofstra University in 1967. He is admitted to the state bars of Illinois and New York, the Supreme Court of the United States, the United States Court of Appeals for the Third, Fourth, Sixth, Seventh, Eleventh Circuits, and Federal Circuit, the United States District Courts for the Northern District of Illinois (including the Trial Bar), Southern District of New York, Eastern District of Michigan and Northern District of California. Mr. Miller is a member of the Chicago Bar Association and the Illinois State Bar Association and served as Chair of the *Cy Pres* Committee of the Illinois Bar Foundation.

**ANDREW SZOT** handles complex commercial litigation matters throughout the United States on behalf of individuals, organizations and companies, including the prosecution of class actions involving antitrust violations, commercial fraud, violations of the federal Motor Carrier Safety Administration Truth-in-Leasing statute and corresponding federal regulations, as well as actions brought pursuant to the federal False Claims Act (*qui tam* actions). Mr. Szot's advocacy has helped achieved significant victories for several indirect purchaser classes, such as in *In re: Polyurethane Antitrust Litigation* (\$150 million class settlement for indirect purchasers); *In re: Potash Antitrust Litigation (II) (N.D. Ill.)* (\$17.5 million class settlement for indirect purchasers); and *In re: Flonase Antitrust Litig. (E.D. Pa.)* (\$46 million class settlement for indirect purchasers). Most recently, on behalf of a class of indirect purchasers, Mr. Szot successfully obtained final approval of a \$33 million settlement package for the class stemming from alleged price-fixing and bid-rigging of liquid aluminum sulfate, a water treatment chemical. The \$33 million settlement likely exceeded one hundred percent of the estimated, aggregated treble damages sustained by the class. Mr. Szot has been repeatedly selected him as Illinois *Rising Star* in litigation.

Mr. Szot received his Bachelor of Arts in History, with distinction, in 1997 from the University of Michigan in Ann Arbor, and earned his law degree from the University of Michigan Law School in 2000. He is a member of the Illinois State Bar (2001), the U.S. Court of Appeals for the Seventh Circuit (2001), the U.S. District Court for the Northern District of Illinois (2001), the U.S. District Court for the Eastern District of Wisconsin (2007), the U.S. District Court of Colorado (2011) and the Federal Trial Bar for the Northern District of Illinois (2007).

Before entering law school, Mr. Szot spent a year teaching and mentoring disadvantaged elementary school students as an AmeriCorps service volunteer, earning him a nomination for the Michigan Governor's Service Award. From June 2012 to June 2014, he served as co-chairperson of the Human Rights Committee of the Chicago Bar Association. He also served on the Advisory Board of Art Works Projects for Human Rights, and was a member of the legal advisory team for *The Prosecutors*, a documentary film about the prosecution of sexual crimes in conflict areas.

**LORIA A. FANNING** concentrates her practice on complex class litigation in a wide range of matters in federal and state court, primarily in the areas of consumer protection, antitrust, derivatives, and securities. She has prosecuted a variety of lawsuits involving the airline, banking, credit card, internet, pharmaceutical, and insurance industries. Ms. Fanning currently litigates antitrust claims in the pharmaceutical sector, including such cases as Effexor, Loestrin, Namenda, Niaspan Suboxone, and Zetia) and previously in such actions as Aggrenox and Solodyn and Ms. Fanning represented the End Payor Class in Flonase as co-lead counsel for the End Payor Class. She has also prosecuted actions such as *In re: Polyurethane Antitrust Litigation* which settled for over \$150 million; consumer protection actions, such as *Greenes v. Sears Protection Company, et al.*, 15-cv-2546 (N.D. Ill.) where a nationwide class was certified and has defended patent litigation on behalf of Datamation Systems, Inc. Ms. Fanning actively participated in the trial preparations for *In re Visa Check/MasterMoney Antitrust Litigation*, a civil antitrust case that settled for in excess of \$3 billion on the eve of trial. Prior to attending law school, she enjoyed a successful career as a logistician with the United States government at the Naval Sea Systems Command in the Washington, D.C. area in support of Foreign Military Sales, new ship construction, and naval equipment. For her dedication, the Department of the Navy honored her with the Meritorious Civilian Service medal.

Ms. Fanning received her law degree with honors and a Certificate in Litigation and Alternative Dispute Resolution from the Illinois Institute of Technology/Chicago-Kent College of Law. She also earned a Master of Science in Administration from Central Michigan University, and a B.A. from the University of Nebraska at Omaha. She is admitted to practice in the state of Illinois and the federal district courts for the Northern District of Illinois, the Eastern District of Wisconsin, and the United States Courts of Appeals for the Seventh and Ninth Circuits. Ms. Fanning is a member of the American Bar Association. Ms. Fanning also serves on the board of a non-profit, Intrigue Performance Dance Company. IPDC raises money for dance scholarships for dancers who could not otherwise afford to pursue their passion for dance.

**MATTHEW E. VAN TINE** focuses his practice on antitrust, securities fraud, and consumer protection matters. He has participated in the prosecution and defense of many securities, antitrust, and consumer class actions over the past two decades including securities litigation against Van Kampen Funds and Baxter International; antitrust class actions involving nurses' wages, the drug warfarin sodium (Coumadin), and an industry-wide effort to raise drug prices paid by retail drug stores (the Brand Name Prescription Drug Antitrust Litigation); and litigation on behalf of consumers challenging an unconstitutional fee imposed on wireless and landline phone customers. Before associating with Miller Law LLC, Mr. Van Tine was affiliated with two other class action boutique law firms for fourteen years. Mr. Van Tine has also practiced with large law firms in Chicago and Boston and served as an Assistant Corporation Counsel for the City of Chicago Law Department.

Mr. Van Tine received his A.B. degree *cum laude* from Harvard College in 1980, and his J.D. degree *magna cum laude* from Boston University School of Law in 1983, where he served as an Executive Editor of the Law Review and was the author of Note, *Application of the Federal Parole Guidelines to Certain Prisoners: An Ex Post Facto Violation*, 62 B.U.L. Rev. 515 (1982). Following law school, Mr. Van Tine served as a law clerk to the Honorable Raymond J. Pettine of the United States District Court for the District of Rhode Island. Mr. Van Tine's practice admissions include the state

bars of Illinois and Massachusetts, the Supreme Court of the United States, the United States Court of Appeals for the Seventh Circuit and the United States District Courts for the Northern District of Illinois and the District of Massachusetts. He is a member of the Chicago and American Bar Associations and served as a past President of the Abraham Lincoln Marovitz American Inn of Court.

**KATHLEEN E. BOYCHUCK** focuses her practice on antitrust and consumer protection complex class litigation. Ms. Boychuck currently manages the electronic discovery review for document-intensive, multi-defendant antitrust class actions. She is active in the prosecution of a matter against a major U.S. pharmaceutical company relating to conduct which has caused generic delay into the market.

Ms. Boychuck graduated from The John Marshall Law School. While in law school, she appeared on the Dean's List. Ms. Boychuck also participated in a study abroad program with a concentration in international human rights in Salzburg, Austria, taught by the Honorable Anthony M. Kennedy, Associate Justice of the United States Supreme Court. Ms. Boychuck received her Bachelor of Arts in Political Science from the University of Wisconsin-Madison. She interned for the American Bar Association's Standing Committee on Law and National Security in Washington, D.C., in support of the legal response to terrorism, weapons of mass destruction and information warfare.

She is admitted to practice in the state of Illinois and the United States District Court for the Northern District of Illinois. Ms. Boychuck is a member of the American Bar Association.

**JAMES L. WARD, JR.**  
**10 Shem Drive, Suite 300**  
**Mt. Pleasant, SC 29464**  
**843-388-7202**  
**jward@mcgowanhood.com**

**PROFESSIONAL EMPLOYMENT:**

McGowan, Hood & Felder, LLC  
Mt. Pleasant, South Carolina.  
Attorney, January 2017 to Present.

Richardson, Patrick, Westbrook & Brickman, LLC  
Mt. Pleasant, South Carolina.  
Member, January 2008 to December 2016.  
Business Manager, March 2004 to December 2016.  
Litigation Associate, October 2002 to December 2007.

Helms Mulliss & Wicker, PLLC (f/k/a Smith Helms Mulliss & Moore, LLP)  
Charlotte, North Carolina.  
Litigation Associate, November 2000 to October 2002.

Sinkler & Boyd, PA (n/k/a Haynsworth Sinkler Boyd, PA)  
Columbia, South Carolina.  
Litigation Associate, August 1997 to November 2000.

Admitted to practice in South Carolina and North Carolina, 1997; United States District Court, District of South Carolina and Western District of North Carolina, 1997; Eastern District of North Carolina, 2001; Middle District of North Carolina, 2002; United States Court of Appeals, Fourth Circuit, 1999.

**EDUCATION:**

University of South Carolina School of Law, Columbia, South Carolina.  
Juris Doctor, cum laude, top ten class rank, 1997.

Order of the Coif; Order of Wig and Robe; Keeper of the Wit and Editorial Staff Member, *South Carolina Law Review*; Legal Writing and Research Teaching Assistant.

The Citadel, Charleston, South Carolina.  
B.A. Political Science, magna cum laude, top twenty class rank, 1994.

## **AWARDS AND DISTINCTIONS:**

Included in *The Best Lawyers in America* (2018-2022) for Plaintiffs' Mass Tort Litigation/Class Actions (Charleston, SC "Lawyer of the Year" 2018 and 2021), Plaintiffs' Personal Injury Litigation, and Plaintiffs' Product Liability Litigation.

Included in *The Best Lawyers in America* (2016-2017) for Plaintiffs' Mass Tort Litigation/Class Actions and Plaintiffs' Product Liability Litigation.

Included in *South Carolina Super Lawyers* for Class Action/Mass Torts (2020-2021).

Recipient of *South Carolina Lawyers Weekly's* Leadership in Law Award given to those who work to better the legal profession through mentoring and involvement within their community as well as going above and beyond in their work (2013).

Recipient of the Silver Compleat Lawyer Award given by the University of South Carolina School of Law Alumni Association to recognize alumni for outstanding civic and professional accomplishments (2011).

Riley Institute Diversity Fellow, Riley Institute at Furman—South Carolina Diversity Leaders Initiative Lowcountry Class IV (Fall 2009).

Martindale-Hubbell AV Peer Review Rating.

Recipient of "Forty Under 40" award as one of the top forty community leaders under the age of forty as selected by the Charleston Regional Business Journal.

Recipient of President's Volunteer Service Award from the President's Council on Service and Civic Participation.

Graduate of the ABA TIPS National Trial Academy (May 2000).

## **PROFESSIONAL ASSOCIATIONS:**

South Carolina Association for Justice, President (2019-2020), President Elect (2018-2019), Vice President (2017-2018), Secretary/Treasurer (2016-2017), Executive Committee (2010-2012, 2014-2020), Board of Governors (2010-2021), Chairman Public Education and Communications Committee (2012-2014), Legislative Policy Steering Committee (2009-), Nominating Committee (2011-2012, 2014-2015, 2020-2021), Chairman Torts and Negligence Section (2009-2011), President's Award recipient (2010); South Carolina Bar, House of Delegates (2014), Chairman Tort and Insurance Practice Section Council (2011-2012), Judicial Qualifications Committee (former member); Judicial Conference of the Fourth Circuit, Permanent Member; American Association for Justice, Council of Presidents (2019-2020), National Finance Council (former member); North Carolina Bar; North Carolina Bar Association; James L. Petigru Inn of Court, President (2015-2017), President Elect (2014-2015), Executive Committee (2013-2019), and Membership Chairman (2013-

2014); Emerging Young DLI Leaders Advisory Committee; Association of Citadel Lawyers (former Vice Chairman); John Belton O’Neill Inn of Court (former member).

**PUBLICATIONS AND SPEECHES:**

*High Profile Mass Tort and Class Action Litigation*, The Sidebar Podcast (April 20, 2020).

*How to Succeed as a New Associate*, Charleston School of Law (April 15, 2019).

*Managing Employees / HR / Communication Issues in the Workplace*, South Carolina Bar Leadership Academy (April 12, 2019).

*Professionalism Series*, Charleston School of Law (October 26, 2017).

*The Importance of Philanthropy*, The Citadel Junior Class Dinner (April 18, 2017).

*Sorin 3T Heater-Cooler System Litigation*, HarrisMartin MDL Conference (March 29, 2017).

*Observations on the Legal Profession After Twenty Years in Practice*, The Citadel Inn of Court (March 21, 2017).

*How to Succeed as a New Associate*, Charleston School of Law (March 20, 2017).

*A Primer on Damages*, Tort Law Update, South Carolina Bar (February 10, 2017).

*South Carolina Damages Second Edition – 2017 Supplement* (James L. Ward, Jr. and Edward J. Westbrook eds., 2017).

*What Works For Me in Practice*, Charleston School of Law (July 22, 2016).

*Making the Most Out of Your Practice*, Charleston School of Law (October 21, 2013).

*Making the Most Out of Your Practice*, Charleston School of Law (October 15, 2012).

*Introduction to Federal Practice—Federal Civil Practice from the Plaintiff’s Perspective*, Federal Bar Association, South Carolina Chapter (August 6, 2012).

Testimony before the South Carolina Senate Judiciary Subcommittee on Tort Reform Legislation (March 25, 2010).

Testimony before the South Carolina Senate Judiciary Subcommittee on Tort Reform Legislation (December 15, 2009).

*Rule 35 Independent Mental Examinations, How Recordation of Independent Mental Examinations Can Ensure Impartiality in the Examination Room Interview*, The Justice Bulletin (SCAJ Fall 2009).

*Beyond the Elements II: South Carolina Damages from A to Z*, South Carolina Bar (September 25, 2009) (Program Moderator).

Testimony before the South Carolina Senate Judiciary Subcommittee on Tort Reform Legislation (September 24, 2009).

*South Carolina Damages Second Edition* (James L. Ward, Jr. and Edward J. Westbrook eds., 2009).

“Auto Accidents,” *South Carolina Damages* 293 (2d ed. 2009).

*Design Defect Actions in South Carolina: For Every Rule There Is An Exception*, South Carolina Circuit Judges Association Conference (May 6, 2009).

*Making the Most Out of Your Practice*, Charleston School of Law (November 10, 2008).

*Ethical Considerations in MDL Designated Counsel Representation*, Federal Bar Association Ethics Seminar (September 11, 2008).

*Ensuring Efficient Discovery and the Admission of Other Similar Incidents Evidence in Automobile Products Cases*, AAJ Winter Convention (January 29, 2008).

*Anatomy of a Civil Lawsuit from Start to Finish*, Columbia radio station WOIC 1230 AM’s *U Need 2 Know Radio Program* (November 29, 2007).

*Making the Most Out of Your Practice: What We Can Learn From Lionel Hutz*, South Carolina Bar Annual Convention (January 26, 2007).

*Squeezing the Lemon: Making the Most Out of Your Practice*, South Carolina Trial Lawyers Association Annual Convention (August 3, 2006).

*Hazing: The Governing Law and Practical Applications*, College of Charleston (October 25, 2004).

*Tips for a Successful Mediation*, South Carolina Trial Lawyers Association Annual Convention (August 5, 2004).

*Tort Reform from the Plaintiffs’ Perspective*, University of South Carolina Political Science Department (March 31, 2004).

*The Admissibility of DNA Statistical Evidence Under State v. Dinkins*, 48 S.C.L. Rev. 93 (1996).

*Libelous Coincidences*, *The Quill* (Nov./Dec. 1995).

## **COMMUNITY ACTIVITIES:**

Charleston Miracle League (founding member Board of Directors and Secretary, 2004 President’s Award Recipient); PlayToday! Foundation, Inc. (former member Board of

Directors); South Carolina Bar (former participant Young Lawyers Division Mentor Project for At-Risk Kids Committee, Middle School Mock Trial Competition Committee, DSS Playground Project Committee, and Adopt-A-Shelter Project Committee, former Ask-A-Lawyer Volunteer); The Citadel Foundation (Class Chairman); The Citadel Brigadier Foundation (Trident Drive volunteer); Citadel Club of Charleston (former President, Vice-President, Business Development Director, Secretary, Bar Steward, and Board of Directors); Cystic Fibrosis Foundation (former Great Strides Team Leader); Special Olympics (former volunteer and Bocce Bash team captain); Dee Norton Lowcountry Children's Center (former Fore the Kids Golf Marathon participant); volunteer youth baseball, basketball, football, and soccer coach; volunteer Charleston School of Law oral argument judge.

## REPRESENTATIVE ENGAGEMENTS:

- Class Counsel, *Durso v. T-N-T Heating & Air Conditioning, Inc.*, Case No. 2018-CP-26-04927 (S.C. Cir. Ct.).
- Class Counsel and Plaintiffs' Steering Committee, *Lightsey v. South Carolina Electric & Gas*, Case No. 2017-CP-25-335 (S.C. Cir. Ct.).
- Class Counsel, Plaintiffs' Steering Committee, and Santee Cooper Liability Counsel, *Cook v. South Carolina Public Service Authority*, Case No. 2019-CP-23-06675 (S.C. Cir. Ct.).
- Class Counsel, *Snee Farm Lakes Homeowner's Association, Inc. v. The Commissioner of Public Works of the Town of Mount Pleasant, South Carolina*, Case No. 2018-CP-10-2764 (S.C. Cir. Ct.).
- Class Counsel, *Green v. Carolina Truck Driving School, LLC*, Case No. 2019-CP-20-302 (S.C. Cir. Ct.).
- Plaintiffs' Executive Committee, *In re: Sorin 3T Heater-Cooler System Products Liability Litigation (No. II)*, MDL Docket No. 2816 (M.D. Pa.).
- Co-Lead Counsel, *In re Airline Baggage Fee Antitrust Litigation*, C.A. No. 1:09-md-2089-TCB (N.D. Ga.).
- Co-Lead Counsel, *In re McKesson Governmental Entities Average Wholesale Price Litigation*, C.A. No. 1:08-CV-11349-PBS (D. Mass.).
- Class Counsel, *Lewis v. Flue-Cured Tobacco Cooperative Stabilization*, Case Nos. 05-CVS-188 and 05-CVS-1938 (N.C. Sup. Ct.).
- Class Counsel, *Ferrell v. Horry Electric Cooperative*, Case No. 2011-CP-26-1266 (S.C. Cir. Ct.).

- Class Counsel, *In re Community Bank of Northern Virginia Mortgage Lending Practices Litigation*, MDL No. 1674 (W.D. Pa.).
- Class Counsel, *The Church of Christ at Azalea Drive v. Forest River, Inc.*, Case No. 2:11-cv-03371-PMD (D.S.C.).
- Class Counsel, *Schreiner v. Patriarch Partners, LLC*, Case No. 02:14-CV-220-RMG (D.S.C.).
- Class Counsel, *Worley Investments, LLC v. Berkeley County, South Carolina*, Case No. 2015-CP-08-1153 (S.C. Cir. Ct.).
- Class Counsel, *Waxler Transp. Co. v. Trinity Marine Prods., Inc.*, Case No. 49-741 (La. Dist. Ct.).
- Counsel for the State of Mississippi in *State of Mississippi v. Purdue Pharma L.P.*, Case No. 2015-1814 (Miss. Chancery Ct.).
- Counsel for the State of Mississippi in *State of Mississippi v. Cardinal Health, Inc.*, Case No. 18-692 (Miss. Cir. Ct.).
- Counsel for the State of Ohio in *State of Ohio v. Purdue Pharma L.P.*, Case No. 17CI000261 (Ohio Common Pleas Ct.).
- Counsel for the State of Arkansas in *State of Arkansas v. Purdue Pharma L.P.*, Case No. 60CV-18-2018 (Ark. Cir. Ct.).
- Counsel for the State of Arkansas in *State of Arkansas v. Cardinal Health, Inc.*, Case No. 60CV-19-2795 (Ark. Cir. Ct.).
- Counsel for the State of Arkansas in *State of Arkansas v. Walgreen Co.*, Case No. 60CV-21-1792 (Ark. Cir. Ct.).
- Counsel for the State of Louisiana in *State of Louisiana v. Purdue Pharma L.P.*, Case No. 661638 (La. Dist. Ct.).
- Counsel for the State of Ohio in *Ohio Pub. Employees Ret. Sys. v. McKesson Corp.*, No. CV-13-2000 (N.D. Cal.).
- Counsel for the State of Utah in *State of Utah v. McKesson Corp.*, No. CV-10-4743 (N.D. Cal.).
- Counsel for the State of Mississippi in *State of Mississippi v. McKesson Corp.*, Case No. 251-10-862-CIV (Miss. Cir. Ct.).
- Counsel for the State of Mississippi in *State of Mississippi v. Abbott Labs., Inc.*, MDL No. 1456 (D. Mass.).

- Counsel for the State of Oklahoma in *State of Oklahoma v. Abbott Labs.*, Case No. CJ-2010-474 (Okla. Dist. Ct.).
- Law Committee Co-Chair and Discovery Committee Member, *In re Bausch & Lomb Contact Lens Solution Products Liability Litigation*, MDL No. 1785 (D.S.C.).
- Plaintiffs' Liaison Counsel, *In re Air Crash at Charlotte International Airport*, MDL No. 1558 (W.D.N.C.).



## Kevin P. Roddy

Shareholder

T: 732.855.6402

F: 732.726.6686

[kroddy@wilentz.com](mailto:kroddy@wilentz.com)



vCard



Email  
Page



LinkedIn



PDF Print



Share

### PROFILE

### SELECTED MATTERS

### NEWS

### SPEAKING ENGAGEMENTS

### AWARDS & RECOGNITION

Kevin P. Roddy is a shareholder in the law firm of Wilentz, Goldman & Spitzer, P.A. He concentrates his practice on complex litigation, including class actions alleging violations of federal and state antitrust, consumer protection, unfair trade practices, anti-racketeering, and securities fraud statutes.

During 2005-2007, Mr. Roddy served as President of the National Association of Shareholder and Consumer Attorneys (NASCAT). From 2000 to 2011, he served on NASCAT's Executive Committee and, from 1991 to 2011, he served as Chair of the NASCAT Amicus Committee. From February 2000 through December 2004, he was managing partner of the Los Angeles Office of Hagens Berman LLP, a Seattle-based firm specializing in class action litigation. From December 1991 to February 2000, he was managing partner of the Los Angeles Office of Milberg Weiss Bershad Hynes & Lerach LLP, a New York- and San Diego-based law firm specializing in class action litigation.

Mr. Roddy has been recognized as a leading Class Action and Mass Torts lawyer by *Super Lawyers* in 2012 and 2014-2021.

Mr. Roddy and his wife, Joann, have three children. They live in Manasquan, New Jersey.

## Articles

- Kevin P. Roddy, RICO IN BUSINESS AND COMMERCIAL LITIGATION (Shepard's/McGraw-Hill, Inc. 1991) (two-volume treatise with annual supplements through 1997)
- G. Robert Blakey & Kevin P. Roddy, Reflections on Reves v. Young: Its Meaning and Impact on Substantive, Accessory, Aiding and Abetting and Conspiracy Liability Under RICO, 33 Amer. Crim. L. Rev. 1345 (1996). This article was published as the Special 25th Anniversary issue of AMERICAN CRIMINAL LAW REVIEW, and it has been favorably cited by numerous federal circuit and district courts, including the Third Circuit Court of Appeals. Smith v. Berg, 247 F.3d 532, 536 nn. 7&8 (3rd Cir. 2001).
- American Bar Association, Section of Antitrust Law, SAMPLE CIVIL RICO JURY INSTRUCTIONS (1994) (principal author)
- Kevin P. Roddy & Daniel S. Floyd, LITIGATING THE CLASS ACTION LAWSUIT IN CALIFORNIA (National Business Institute 2001 & 2002)
- Kevin P. Roddy and Seth Aronson, LITIGATING THE CLASS ACTION LAWSUIT IN CALIFORNIA (National Business Institute 2000)
- Kevin P. Roddy, Eight Years of Practice and Procedure Under the Private Securities Reform Act of 1995, Postgraduate Course in Federal Securities Law (July 2004) (papers prepared for 1998, 1999, 2000, 2001, 2002, and 2003 programs are available on Lexis)
- Civil Law Editor, RICO LAW REPORTER (1991 to present)
- Member, Editorial Advisory Board, CIVIL RICO REPORT (1991 to present)

## Speaking Engagements

Since November 1999, he has appeared as a principal speaker at the following continuing legal education programs:

- Litigation Counsel of America, Challenges to Expert Witness Testimony in Federal Court, New York, New York, November 30, 2018
- State Bar of Georgia, Seminar on RICO, Atlanta, Georgia, September 20, 2018
- Federal RICO and New Jersey RICO: Litigation and Trial, Atlantic City, New Jersey, May 20, 2018
- Litigation Counsel of America, Trial of a Civil RICO Class Action, New York, New York, December 1, 2017
- Georgia Bar Association, Seminar on RICO, Atlanta, Georgia, November 13, 2015
- Georgia Bar Association, Seminar on RICO, Atlanta, Georgia, November 7, 2013
- American Law Institute-American Bar Association, Postgraduate Course in Federal Securities Law, Boston, MA, July 7-9, 2005
- American Bar Association, Tort Trial & Insurance Practice Section, E-Document Preservation & E-Discovery After Zubulake – What Every Litigator and In-House Counsel Needs to Know, April 21, 2005 (teleconference)
- NASCAT, Class Action Notice and Claims Administration – Best Practices of the Experts, Lake Las Vegas, Nevada, April 7, 2005
- CLE International, Class Actions: A How-To on Initiating, Defending and Litigating Them, Los Angeles, California, February 24-25, 2005
- Federal Trade Commission, Class Actions Workshop, Washington, DC, September 13-14, 2004
- American Law Institute-American Bar Association, Postgraduate Course in Federal Securities Laws, Chicago, Illinois, August 26, 2004
- Business & Professions Code Section 17200: Is The Unfair Competition Law “Unfair”?, Association of Business Trial Lawyers, San Francisco, California, December 9, 2003.
- The Cambridge International Symposium on Economic Crime, Jesus College, Cambridge, United Kingdom, September 12, 2003
- When the Going Gets Tough: Advising a Company in Crisis (Parts I & II), American Bar Association Annual Meeting, San Francisco, California, August 9-10, 2003
- Business and Professions Code Section 17200 in California, Oakland, California, July 30, 2003
- American Law Institute-American Bar Association, Postgraduate Course in Federal Securities Laws, San Francisco, California, July 24, 2003
- Institute for Law and Economic Policy, Agencies, Economic Justice and Private Initiatives, San Diego, California, April 5, 2003
- National Business Institute, Litigating the Class Action Lawsuit in California, Los Angeles, California, December 16, 2002
- American Law Institute-American Bar Association, Postgraduate Course in Federal Securities Law, Boston, Massachusetts, July 18, 2002
- Association of Business Trial Lawyers, Business Litigation in the “Post-Enron” World,

Los Angeles, California, April 9, 2002

- University of Kentucky School of Law, 11th Biennial Midwest/Midsouth Securities Law Conference, Louisville, Kentucky, February 15, 2002
- Northwestern University School of Law-Securities Regulation Institute, 29th Annual Securities Regulation Conference, San Diego, California, January 23, 2002.
- Practising Law Institute, 33rd Annual Institute on Securities Regulation, New York, New York, November 7, 2001
- National Business Institute, Litigating the Class Action Lawsuit in California, Los Angeles, California, October 24, 2001
- American Law Institute-American Bar Association, Postgraduate Course in Federal Securities Law, San Francisco, California, July 19, 2001
- Institute for International Research, Securities Regulation & Enforcement Conference, New York, New York, June 19, 2001
- National Business Institute, Litigating the Class Action Lawsuit in California, Los Angeles, California, October 25, 2000
- Orange County Bar Association, Second Annual Capital Markets Seminar, Costa Mesa, California, September 27, 2000
- Practising Law Institute, Advanced Securities Law Workshop, San Diego, California, August 10, 2000
- Practising Law Institute, 31st Annual Institute on Securities Regulation, New York, New York, November 3, 1999

## Practice

- Class Action

## Education

- J.D., University of North Carolina, School of Law, 1980
- B.A., University of North Carolina, College of Arts & Sciences, 1977, with honors

## Admissions

- United States Supreme Court
- New Jersey, 2005
- New York, 2004
- California, 1987
- Virginia, 1982
- United States Courts of Appeals: District of Columbia, First, Second, Third, Fourth, Fifth, Sixth, Seventh, Ninth, Tenth, and Eleventh Circuits
- United States District Court for the District of New Jersey

- United States District Court for the Southern District of New York
- United States District Court for the Eastern District of New York
- United States District Court for the Northern District of New York
- United States District Court for the Central District of California
- United States District Court for the Eastern District of California
- United States District Court for the Northern District of California
- United States District Court for the Southern District of California
- United States District Court for the Eastern District of Virginia
- United States District Court for the Western District of Virginia

## Recognition



### Rankings Disclaimers

Super Lawyers® ([http://www.superlawyers.com/about/selection\\_process\\_detail.html](http://www.superlawyers.com/about/selection_process_detail.html)) is published by Thomson Reuters.

A description of the selection process may be accessed via the above link. The aforementioned organization is a private peer review organization, not court-specific, public certification vehicles. No aspect of this advertisement has been submitted to or approved by the Supreme Court of New Jersey.

---

## Also of Interest

---

**March 23, 2021**

**[39 Wilentz Attorneys Named to New Jersey Super Lawyers and Rising Stars Lists in 2021 Edition](#)**

**July 7, 2020**

**[U.S. District Court for the District of New Jersey Grants Final Approval of Class Action Settlement in Subaru "Starlink" Litigation](#)**

**March 31, 2020**

## 36 Wilentz Attorneys Named to New Jersey Super Lawyers and Rising Stars Lists

March 19, 2019

43 Wilentz Attorneys Named to New Jersey Super Lawyers and Super Lawyers Rising Stars Lists

[ABOUT](#) | [ATTORNEYS](#) | [BUSINESS SERVICES](#) |  
[PERSONAL SERVICES](#) | [PERSPECTIVES](#) | [+ SHOW SITEMAP](#)

© 2022 Wilentz, Goldman & Spitzer, P.A. All rights reserved. [+ Disclaimer](#) |  
[Privacy Policy](#) | [Credits](#) | 855-945-3689



# WILENTZ

—ATTORNEYS AT LAW—

855-945-3689

Kevin P. Roddy



## Shareholder

T: 732.855.6402

F: 732.726.6686

kroddy@wilentz.com



vCard



Email



LinkedIn

Page



PDF Print



Share



## PROFILE

## SELECTED MATTERS

## NEWS

## SPEAKING ENGAGEMENTS

## AWARDS & RECOGNITION

### Participation in Significant Complex Litigation and Trial Experience:

For more than 35 years, Kevin Roddy has represented plaintiffs in many significant class actions, representative actions, and derivative actions litigated in federal and state courts throughout the United States. He has represented individual and institutional clients. Mr. Roddy has played the lead role in representing plaintiffs in many significant cases, and has helped secure recoveries exceeding \$2 billion. Results achieved in prior matters are not meant to be a guarantee of success as the facts and legal circumstances vary from matter to matter.



855-945-3689



as Lead Counsel for Plaintiffs, Senior U.S. District Judge Charles Sifton of the Eastern District of New York lauded Mr. Roddy's "extensive experience handling civil RICO cases and class actions." The Court noted that the team of plaintiffs' counsel, led by Mr. Roddy, had "secured a significant recovery, including injunctive relief that requires [Western Union] to materially change the consumer disclosure forms and receipts that it uses throughout the world, in a complex, risky class action, and confronted defense counsel from highly respected law firms." *In re Western Union Money Transfer Litigation*, Master File No. CV-01-0335 (CPS) (E.D.N.Y. Feb. 8, 2005) (Memorandum and Order, at 13, 16). That case was settled in 2005 on a worldwide basis for consideration exceeding \$65 million and the imposition of worldwide injunctive relief.


In coordinated cases brought in the Superior Court of Sacramento County, California, *In re Ford Explorer Cases*, JCCP Nos. 4266 & 4270, Mr. Roddy was chosen Co-Lead Counsel for the California Plaintiff Class, which consisted of over 450,000 vehicle owners. In 2005, Coordination Trial Judge David DeAlba certified a statewide (California) class. During 2007, Mr. Roddy, along with other Plaintiffs' counsel, tried the class action for 50 days in the Sacramento County Superior Court. The same year, the parties announced a proposed four-state class action settlement on behalf of nearly one million vehicle owners residing in California, Illinois, Texas and Connecticut. That settlement was approved by Judge DeAlba in 2008.

In another class action that was prosecuted simultaneously in state courts in California and Florida, *In re Rexall Cellasene Cases*, Mr. Roddy was chosen Co-Lead Counsel for the nationwide consumer class and, working together with attorneys from the Federal Trade Commission, in 2003 he successfully negotiated a \$20 million settlement that provided consumers with a full-dollar recovery and imposed precedent-setting injunctive relief governing the entire dietary supplement industry.

Mr. Roddy has played a significant role in several multidistrict litigations ("MDLs"). For example, in *In re Aetna UCR Litigation*, MDL No. 2020, pending in the District of New Jersey, he was chosen to serve as one of the Subscriber Class Counsel in a class action brought on behalf of beneficiaries of health insurance plans. In *In re Pacquiao-Mayweather Boxing Match Pay-Per-View Litigation*, MDL No. 2639, in the Central District of California, he served as chair of the law committee in proposed class actions asserting consumer protection claims brought on behalf of purchasers of pay-per-view services to watch a disputed prizefight. In *re Imprelis Herbicide Litigation*, MDL No. 2284, a consumer protection class action brought against the manufacturer of a defective herbicide and litigated in the Eastern

**WILENTZ**

—ATTORNEYS AT LAW—

 855-945-3689


derivative action, Mr. Roddy was chosen co-lead counsel for plaintiff, and he successfully negotiated a \$12 million settlement for the benefit of REIT unit holders who objected to a corporate merger.

Mr. Roddy has tried more than a dozen cases in federal and state courts in New Jersey, California, Colorado, Virginia, Arizona, Tennessee and North Carolina. In *In re American Continental Corp./Lincoln Savings & Loan Securities Litigation*, he was one of the lead trial counsel for a class of 23,000 defrauded shareholders and bondholders; that case (including a five-month jury trial in the District of Arizona) resulted in settlements of approximately \$250 million and a jury verdict against the non-settling defendants exceeding \$3 billion. In *The Industry Network System, Inc. v. Armstrong World Industries*, he was co-lead trial counsel in a 68-day antitrust conspiracy jury trial in the District of New Jersey. In *Stilwell Developments v. Wing Wah Chong*, he was lead trial counsel for the plaintiff smoke alarm manufacturer in a two-month intellectual property trial involving the enforcement of patents and copyrights; that case resulted in a \$7 million jury verdict for plaintiff, which was successfully enforced in ancillary proceedings in the Hong Kong courts.

In *CGC Holding Co., LLC v. Hutchens*, Case No. 11-1012, a RICO class action arising out of an advance fee lending scheme and pending in the District of Colorado, he was appointed co-lead counsel for plaintiffs and the certified class of consumers who were allegedly defrauded. In May 2017, Mr. Roddy served as co-lead trial counsel during a 10-day jury trial. The jury returned a verdict for plaintiffs and class members, found defendants to be liable for RICO violations, and awarded \$8.4 million in compensatory damages. On September 26, 2017, Judge Blaine Jackson awarded treble damages and entered a judgment awarding more than \$24 million to plaintiffs and class members.

On December 18, 2017, Judge Jackson issued his Rulings on Additional Post-Trial Motions, directing the clerk to enter a final judgment in the amount of \$25 million, including costs and interest, and imposed a constructive trust over defendants' properties. Describing the litigation as "a complex, intensely litigated, and difficult case," Judge Jackson described the performance of Mr. Roddy and his co-counsel as "an excellent job." *CGC Holding Co., LLC v. Hutchens*, Civil Action No. 11-cv-01012-RBJ-KLM, Docket No. 890 (D. Colo.).

The Tenth Circuit Court of Appeals affirmed the trial court's rulings. *CGC Holding Co., LLC v. Hutchens*, 780 Fed. Appx. 604 (10<sup>th</sup> Cir. 2019), subsequent opinion, 974 F.3d 1201 (10<sup>th</sup> Cir. 2020).

 855-945-3689

District of Utah in 2019.

### **Expert Witness Experience:**

Mr. Roddy has served as an expert witness in both federal and state court. In one case litigated in the Northern District of Texas, he served as an expert witness for the defendant law firms in a legal malpractice action arising out of class action settlements. In another case litigated in the Orange County, California, Superior Court, he served as an expert witness for the defendant lawyers in a malicious prosecution case arising out of a consumer protection class action. In August 2016, Mr. Roddy testified as an expert witness on behalf of the defendant attorney in a federal criminal case tried in the Southern District of Mississippi. In February 2018, Roddy testified as an expert witness on behalf of the defendant attorney in a federal criminal case tried in the Western District of Texas.

### **Appellate Court Experience:**

Mr. Roddy has extensive experience in the appellate courts. For example, in March 2006, Mr. Roddy argued a civil RICO case in the United States Supreme Court. The resulting decision, *Anza v. Ideal Steel Supply Corp.*, 547 U.S. 451 (2006), established the standard for evaluating proximate causation in such cases.

### **Some of his significant federal circuit court cases include the following:**

- *CGC Holding Co., LLC v. Hutchens*, 780 Fed. Appx. 604 (10<sup>th</sup> 2019) (affirming district court's imposition of discovery sanctions, including contempt citation, against defendants for refusal to produce discovery), subsequent opinion, 974 F.3d 1201 (10<sup>th</sup> Cir. 2020) (affirming district court's pre-trial and post-trial rulings in RICO class action).
- *In re Lipitor Antitrust Litig.*, 855 F.3d 126 (3d Cir. 2017) (reversing trial court's dismissal of antitrust claims)
- *DCG&T f/b/o Battaglia v. Knight*, 648 Fed.Appx. 342 (4th Cir. 2016) (dismissing objector's appeal from district court's decision granting approval of settlement of shareholder derivative action)
- *Miller v. Basic Research, LLC*, 750 F.3d 1173 (10th Cir. 2014) (consumer protection class action alleging false advertising of weight-loss dietary supplement)
- *Fisher v. Kadant, Inc.*, 589 F.3d 505 (1st Cir. 2009) (breach of warranty class action alleging defective residential deck materials)
- *Karim v. AWB, Ltd.*, 347 Fed. Appx. 714 (2nd Cir. 2009) (class action on behalf of Iraqi Kurds alleging money laundering and diversion of proceeds from United Nations oil-for-food program)



855-945-3689



- class action involving purchase of "excess value" insurance for package shippers; 9th Circuit reversed district court's dismissal of action and refusal to remand case to state court)
- United States ex rel. Lujan v. Hughes Aircraft Co., 243 F.3d 1181 (9th Cir. 2001) (False Claims Act qui tam action against defense contractor arising out of construction of B-2 bomber; affirming district court's dismissal of whistleblower's action against defense contractor)
- Lanza v. Merrill Lynch & Co., 154 F.3d 56 (2nd Cir. 1998) (securities fraud/civil RICO class action brought against securities seller; 2nd Circuit affirmed dismissal of action on statute of limitations grounds)
- Batchelder v. Kawamoto, 147 F.3d 915 (9th Cir. 1998) (shareholder derivative action arising out of Honda Motor Co. automobile dealership bribery scandal; 9th Circuit affirmed dismissal of action because U.S. ADR holder lacked standing to sue as shareholder under Japanese law)
- Price v. Pinnacle Brands, Inc., 138 F.3d 602 (5th Cir. 1998) (RICO action brought by trading card purchasers against manufacturer alleging illegal lottery scheme)
- The Industry Network System, Inc. v. Armstrong World Industries, 54 F.3d 150 (3rd Cir. 1995) (antitrust action brought by video distributor against floor covering manufacturer; 3rd Circuit affirmed jury's failure to award damages to plaintiff following trial)
- Hamid v. Price Waterhouse, 51 F.3d 1411 (9th Cir. 1995) (BCCI depositors class action litigation; 9th Circuit affirmed dismissal of action on abstention and comity grounds)
- United States v. BCCI Holdings, S.A., 46 F.3d 1185 (D.C. Cir. 1995) (RICO forfeiture proceeding; D.C. Circuit affirmed dismissal of depositors' third-party forfeiture petition arising out of RICO prosecution and resulting forfeiture of assets)
- Terry's Floor Fashions, Inc. v. Burlington Industries, Inc., 763 F.2d 604 (4th Cir. 1985) (antitrust dealer termination case brought against carpet manufacturer and competing dealer; affirming district court's entry of summary judgment for defendants)
- Lindner v. Durham Hosiery Mills, Inc., 761 F.2d 162 (4th Cir. 1985) (securities case brought against textile manufacturer; affirming district court's entry of judgment for defendants following two-week federal court jury trial)

### Some of his significant federal district court cases include the following:

- Roberts v. C.R. England, Inc., 318 F.R.D. 457 (D. Utah 2017) (certifying nationwide class as to state law claims asserted by long-haul truck drivers against trucking company);




855-945-3689



- motion to compel discovery and awarding sanctions against defendant who refused to produce discovery in certified class action arising out of advance fee loan fraud scheme and asserting civil RICO claims); 2016 WL 6778853 (D. Colo. Nov. 16, 2016) (granting plaintiffs' motions in limine); 2017 WL 1435857 (D. Colo. Apr. 20, 2017) (denying defendants' "Daubert" challenges to plaintiffs' expert witnesses); 2017 WL 4621094 (D. Colo. Sept. 26, 2017) (awarding treble damages to plaintiffs and nationwide class and imposing constructive trust against defendants)
- Cohen v. Cohen, 993 F. Supp. 2d 414 (S.D.N.Y. 2014) (breach of fiduciary duty and civil RICO claims arising out of divorce proceeding)
  - Mervyn v. Atlas Van Lines, Inc., 2013 U.S. Dist. LEXIS 146840 (N.D. Ill. Oct. 2, 2013) (class action brought on behalf of long-haul truck drivers)
  - Stutzman v. Armstrong, 2013 U.S. Dist. LEXIS 109151 (E.D. Cal. Aug. 2, 2013) & 2013 U.S. Dist. LEXIS 129204 (E.D. Cal. Sept. 10, 2013) (consumer class action brought against disgraced cyclist and book publishers)
  - Ries v. Ariz. Bevs. United States LLC, 2012 U.S. Dist. LEXIS 169853 (N.D. Cal. Nov. 27, 2012)(granting plaintiff-consumers' motion for class certification)
  - Franco v. Conn. Gen'l Life Ins. Co., 818 F. Supp. 2d 792 (D.N.J. 2011) (denying motion to dismiss RICO and ERISA claims in class action brought by health care insureds against insurer)
  - Shakib v. Back Bay Rest. Group, Inc., 2011 U.S. Dist. LEXIS 124143 (D.N.J. Oct. 26, 2011) & 2011 U.S. Dist. LEXIS 112614 (D.N.J. Sept. 30, 2011) (denying motion to dismiss and conditionally certifying class of restaurant workers seeking to recover overtime pay from employer)
  - In re Imprelis Herbicide Mktg., Sales Pracs. & Prods. Liab. Litig., 824 F. Supp. 2d 1357 (J.P.M.L. 2011) (product liability case arising out of defective herbicide; successfully argued that cases should be centralized in Eastern District of Pennsylvania); 2013 U.S. Dist. LEXIS 149323 (E.D. Pa. Oct. 17, 2013) (approving class action settlement of claims brought by property owners, golf courses, and landscaping professionals against manufacturer of defective herbicide)
  - Ford Motor Co. v. Edgewood Properties, Inc., 2012 U.S. Dist. LEXIS 125197 (D.N.J. Aug. 31, 2012)(denying third-party defendant environmental consultant's motion for summary judgment); 2011 U.S. Dist. LEXIS 67227 (D.N.J. June 23, 2011); 2011 U.S. Dist. LEXIS 45368 (D.N.J. Apr. 27, 2011); 2011 U.S. Dist. LEXIS 36215 (D.N.J. Apr. 4, 2011); 2011 U.S. Dist. LEXIS 15776 (D.N.J. Feb. 15, 2011); 2010 U.S. Dist. LEXIS 130866 (D.N.J. Dec. 10, 2010); 2010 U.S. Dist. LEXIS 119373 (D.N.J. Nov. 10, 2010);

# WILENTZ

—ATTORNEYS AT LAW—

 855-945-3689




crushed concrete from former vehicle assembly plant), in 2012 the developer's federal and state law claims against the property owner, contractor, and environmental consultants were settled)

- Van Koenig v. Snapple Bev. Corp., 713 F. Supp. 2d 1066 (E.D. Cal. 2010) (denying defendant's motion to dismiss consumer protection class action alleging false labeling of iced tea product)
- Miller v. Basic Research, Inc., 2008 WL 4755787 (D. Utah Oct. 27, 2008) (refusing to dismiss civil RICO and consumer fraud claims brought against dietary supplement manufacturer and its principal officers and directors); 2011 U.S. Dist. LEXIS 21521 (D. Utah Mar. 2, 2011) (affirming certification of nationwide class and approving proposed class notice program); 2013 U.S. Dist. LEXIS 40553 (D. Utah Mar. 22, 2013) & 2013 U.S. Dist. LEXIS 56748 (D. Utah Apr. 16, 2013) (granting motion to enforce class action settlement)
- McCoy v. Health Net, Inc., 569 F. Supp. 2d 448 (D.N.J. 2008) (granting final approval to \$255 million settlement of health care insureds' class action claims against insurance company)
- In re Ford Motor Co. E-350 Van Prods. Liab. Litig., 2008 WL 4126264 (D.N.J. Sept. 2, 2008) (refusing to dismiss breach of warranty, consumer protection and unjust enrichment claims brought by purchasers of 15-passenger vans against vehicle manufacturer); 2011 U.S. Dist. LEXIS 16504 (D.N.J. Feb. 16, 2011) (denying Ford's motions for summary judgment); 2009 U.S. Dist. LEXIS 108085 (D.N.J. Nov. 18, 2009) (same); 2009 U.S. Dist. LEXIS 68241 (D.N.J. July 9, 2010) (same); 2012 U.S. Dist. LEXIS 13887 (D.N.J. Feb. 6, 2012) (denying plaintiffs' motion for class certification)
- American Medical Ass'n v. United Healthcare, Inc., 2008 WL 3914868 (S.D.N.Y. Aug. 22, 2008) (refusing to dismiss civil RICO claims brought by health care insureds against insurance company)
- Franco v. CIGNA, 2008 WL 3399644 (D.N.J. Aug. 6, 2008) (refusing to dismiss ERISA claims brought by health care insureds against insurance company)
- In re Able Labs. Secs. Litig., 2008 WL 1967509 (D.N.J. Mar. 24, 2008) (refusing to dismiss investors' securities fraud claim against bankrupt company's officers and directors)
- In re Inphonic, Inc. Wireless Phone Rebate Litigation, 460 F. Supp. 2d 1380 (J.P.M.L. 2006) (consumer protection class action alleging rebate denials)
- In re Ford Motor Co. E-350 Van Products Liability Litigation, 374 F. Supp. 2d 1353 (J.P.M.L. 2005) (15-passenger van products liability class action)

# WILENTZ

—ATTORNEYS AT LAW—

 855-945-3689



- *Buckwalter v. Napoli, Kaiser & Bern LLP*, 2005 WL 736216 (S.D.N.Y. Mar. 29, 2005) (civil RICO class action arising out of class action settlement)
- *In re Western Union Money Transfer Litigation*, Master File No. 01-CV-0335 (CPS) (E.D.N.Y. Oct. 18, 2004 & Feb. 8, 2005) (approving worldwide settlement of civil RICO and unfair trade practices class action brought against money transfer services)
- *In re Pharmaceutical Indus. Avg. Wholesale Price Litig.*, 263 F. Supp. 2d 172 (D. Mass. 2003) (RICO and unfair trade practice class action alleging overstatements of average wholesale price of prescription drugs)
- *In re Enron Corp. Secs., Deriv. & ERISA Litig.*, 284 F. Supp. 2d 511 (S.D. Tex. 2003) (RICO class action arising from collapse of energy company)
- *In re Calif. Wholesale Elec. Antitrust Litig.*, 244 F. Supp. 2d 1072 (S.D. Cal. 2003) (antitrust class action arising out of California energy “crisis”)
- *Sarei v. Rio Tinto PLC*, 221 F. Supp. 2d 1116 (C.D. Cal. 2002) (Alien Tort Claims Act class action brought by islanders against Australian mining company)
- *Smith v. Mail Boxes Etc., Inc.*, 191 F. Supp. 2d 1155 (E.D. Cal. 2002) (consumer protection class action alleging overcharges in excess of \$80 million for “excess value” insurance; district court refused to remand case to state court under “last-served defendant” rule; case was transferred to MDL proceeding in S.D.N.Y.)
- *In re AOL, Inc. Version 5.0 Software Litigation*, 168 F. Supp. 2d 1359 (S.D. Fla. 2001) (consumer protection class action brought against internet company; district court refused to grant motions to dismiss)
- *In re World War II Era Japanese Forced Labor Litigation*, 164 F. Supp. 2d 1160 (N.D. Cal. 2001), 164 F. Supp. 2d 1153 (N.D. Cal. 2001), 114 F. Supp. 2d 939 (N.D. Cal. 2000) (forced labor class actions brought by former POWs and civilian internees against numerous Japanese companies; district court dismissed plaintiffs’ claims on a variety of grounds)
- *Cardenas v. Ria Telecommunications, Inc.*, 2001 U.S. Dist. LEXIS 6609 (N.D. Ill. May 18, 2001) (civil RICO case; dismissing claims against money transfer service)
- *In re SmarTalk Teleservices, Inc. Securities Litigation*, 124 F. Supp. 2d 487 (S.D. Ohio 2000), 124 F. Supp. 2d 505 (S.D. Ohio 2000), 124 F. Supp. 2d 527 (S.D. Ohio 2000) (securities fraud class action against phone service provider; district court refused to grant motions to dismiss)
- *Blue Cross v. SmithKline Beecham Clinical Laboratories, Inc.*, 108 F. Supp. 2d 84 (D. Conn. 1999), 108 F. Supp. 2d 116 (D. Conn. 2000), 108 F. Supp. 2d 125 (D. Conn. 2000), 108 F. Supp. 2d 130 (D. Conn. 2000) (consumer protection and civil RICO class action



855-945-3689



alleging fraudulent overcharges for laboratory services in excess of \$100 million;

certain claims and dismissed other claims)

League Baseball Properties, Inc., 104 F. Supp. 2d 1220 (S.D. Cal. 2000)

& 52 F. Supp. 2d 1183 (S.D. Cal. 1999) (consumer protection/civil RICO class action

alleging that trading cards constitute illegal gambling under state and federal law,

trading card purchasers lacked standing to sue manufacturers, distributors and

professional sports leagues) and Rodriguez v. Topps Co., 104 F. Supp. 2d 1224 (S.D.

Cal. 2000) (same)

- Yousefi v. Lockheed Martin Corp., 70 F. Supp. 2d 1061 (C.D. Cal. 1999) (securities fraud class action brought against aerospace company; district court appointed lead plaintiffs and lead counsel under PSLRA)
- Schlagal v. Learning Tree Corp., 1998 U.S. Dist. LEXIS 20306 (C.D. Cal. 1998), 1999 U.S. Dist. LEXIS 2157 (C.D. Cal. 1999) (securities fraud class action brought against computer software manufacturer; district court refused to grant motions to dismiss and certified class)
- Squyres v. Union Texas Petroleum Holdings, Inc., 1998 U.S. Dist. LEXIS 22945 (C.D. Cal. Nov. 2, 1998) (securities fraud class action brought against petroleum exploration company; appointing lead counsel under PSLRA)
- In re Stratosphere Corp. Securities Litigation, 1997 U.S. Dist. LEXIS 14621 (D. Nev. 1997), 1997 U.S. Dist. LEXIS 14616 (D. Nev. 1997), 1998 Bankr. LEXIS 1935 (Bankr. D. Nev. 1998), 182 F.R.D. 614 (D. Nev. 1998), 1 F. Supp. 2d 1096 (D. Nev. 1999), 66 F. Supp. 2d 1182 (D. Nev. 1999) (securities fraud class action brought against casino company; various decisions by district court and bankruptcy court on motions to dismiss and summary judgment and discovery motions)
- Pharmacare v. Caremark, 965 F. Supp. 1411 (D. Haw. 1996) (civil RICO class action arising out of bribery scandal involving health care manufacturer and physicians; district court refused to grant motions to dismiss)
- In re Prudential Securities Limited Partnerships Litigation, 911 F. Supp. 135 (S.D.N.Y. 1996), 912 F. Supp. 97 (S.D.N.Y. 1996), 930 F. Supp. 68 (S.D.N.Y. 1996), 985 F. Supp. 410 (S.D.N.Y. 1997) (securities fraud/RICO class action brought against general partner of limited partnerships formed to purchase and lease jet aircraft; district court refused to grant motions to dismiss, certified classes, and approved \$120 million settlement)
- In re Herbalife Securities Litigation, 1996 U.S. Dist. LEXIS 11484 (C.D. Cal. Jan. 25, 1996) (securities fraud case brought against dietary supplement manufacturer; dismissing claims against defendants)
- Krishan v. McDonnell Douglas Corp., 873 F. Supp. 345 (C.D. Cal. 1994) (ERISA class action brought on behalf of retirees against aerospace manufacturer; district court granted summary judgment for employer; case settled for over \$400 million while appeal to 9th Circuit was pending)



855-945-3689



1993), 140 F.R.D. 425 (D. Ariz. 1992), 782 F. Supp. 1382 (D. Ariz. 1991) (securities fraud/RICO class action arising out of collapse of savings and loan and parent company; district court refused to grant defendants' summary judgment motions)

Results achieved in prior matters are not meant to be a guarantee of success as the facts and legal circumstances vary from matter to matter.

### Some of his significant state court cases include the following:

- Thiedemann v. Mercedes-Benz USA, LLC, 872 A.2d 783 (N.J. 2005) (construction and application of "ascertainable loss" requirement of New Jersey Consumer Fraud Act)
- Wayne v. DHL Express (USA), Inc., 2005 WL 1140686 (Cal. App. May 16, 2005) (violations of California consumer protection statutes through overcharges for "shipment insurance")
- Stanley v. California State Lottery Commission, 112 Cal. App. 4th 168 (2003), review granted, No. S120121 (Dec. 10, 2003) & 2003 Cal. App. Unpub. LEXIS 8296 (Aug. 29, 2003) (consumer actions alleging violations of Lottery Act in sales of "Scratcher" tickets)
- Shields v. Singleton, 15 Cal. App. 4th 1611, 19 Cal. Rptr. 2d 459 (1993) (shareholder derivative action involving aerospace contractor; affirming trial court's dismissal of claims against defendants)
- Drilling v. Berman, 589 N.W.2d 503 (Minn. App. 1999) (shareholder derivative action involving casino company; affirming trial court's dismissal of claims against defendants)

### Other Significant Professional Activities:

During 1991-2011, as Chair of NASCAT's Amicus Committee, Mr. Roddy filed more than three dozen amicus curiae briefs filed in the U.S. Supreme Court, federal circuit courts and state supreme courts, including *Merck & Co. v. Reynolds*, No. 08-905 (securities litigation); *Jones v. Harris Assocs., L.P.*, No. 08-586 (shareholder litigation); *Morrison v. Nat'l Australia Bank, Ltd.*, No. 08-1191 (securities litigation); *Boyle v. United States*, No. 07-1309 (RICO); *Bridges v. Phoenix Bond & Indem. Co.*, No. 07-210 (RICO); *Tellabs, Inc. v. Makor Issues & Rights, Ltd.*, No. 06-484 (securities litigation); *Mohawk Indus. v. Williams*, No. 05-465 (RICO); *Merrill Lynch, Pierce, Fenner & Smith, Inc. v. Dabit*, No. 04-1371 (SLUSA preemption of "holder" actions); *Metro-Goldwyn-Mayer Studios, Inc. v. Grokster, Ltd.*, 125 S. Ct. 2764 (2005); *Dura Pharmaceuticals, Inc. v. Broudo*, No. 03-932, 125 S. Ct. 1627 (2005) (securities fraud "loss causation"); *Robinson Helicopter Co. v. Dana Corp.*, 102 P.3d 268 (Cal. 2004) ("economic

# WILENTZ

—ATTORNEYS AT LAW—

855-945-3689



loss rule" in consumer fraud cases); *Borowiec v. Gateway 2000, Inc.*, 808 N.E.2d 957

(class action; validity of arbitration clauses); *SEC v. Z*

(dealer's liability for securities fraud); *Cedric Kushner Promotions,*

*Ltd. v. King*, 533 U.S. 158 (2001) (RICO; liability of corporate officers); *Hanlon v. Berger*, 526

U.S. 808 (1999) (media and privacy rights under First Amendment); *Ortiz v. Fibreboard Corp.*,

527 U.S. 815 (1999) (asbestos class action settlements); *Klehr v. A.O. Smith Corp.*, 521 U.S.

179 (1997) (RICO); *Amchem Products v. Windsor*, 521 U.S. 591 (1997) (asbestos class

action settlements); *BMW of North America v. Gore*, 517 U.S. 559 (1996) (punitive damages

in consumer protection cases); *Varsity Corp. v. Howe*, 516 U.S. 489 (1996) (ERISA rights of

employees); *Curtiss-Wright Corp. v. Schoonejongen*, 514 U.S. 73 (1995) (ERISA rights of

employees); *Boca Grande Club v. Florida Power & Light Co.*, 511 U.S. 222 (1994)

(contribution rights of defendants); *Central Bank, N.A. v. First Interstate Bank, N.A.*, 511 U.S.

164 (1994) (securities fraud; liability of aiders and abettors); *TXO Production Corp. v.*

## Practice

- Class Action


## Education

- J.D., University of North Carolina, School of Law, 1980
- B.A., University of North Carolina, College of Arts & Sciences, 1977, with honors

## Admissions

- United States Supreme Court
- New Jersey, 2005
- New York, 2004
- California, 1987
- Virginia, 1982
- United States Courts of Appeals: District of Columbia, First, Second, Third, Fourth, Fifth, Sixth, Seventh, Ninth, Tenth, and Eleventh Circuits
- United States District Court for the District of New Jersey
- United States District Court for the Southern District of New York
- United States District Court for the Eastern District of New York
- United States District Court for the Northern District of New York
- United States District Court for the Central District of California
- United States District Court for the Eastern District of California
- United States District Court for the Northern District of California
- United States District Court for the Southern District of California
- United States District Court for the Eastern District of Virginia

• United States District Court for the Western District of Virginia

**WILENTZ**  
—ATTORNEYS AT LAW— 855-945-3689**Super Lawyers®****Kevin P. Roddy****SuperLawyers.com****Rankings Disclaimers**

Super Lawyers® ([http://www.superlawyers.com/about/selection\\_process\\_detail.html](http://www.superlawyers.com/about/selection_process_detail.html)) is published by Thomson Reuters.

A description of the selection process may be accessed via the above link. The aforementioned organization is a private peer review organization, not court-specific, public certification vehicles. No aspect of this advertisement has been submitted to or approved by the Supreme Court of New Jersey.

---

**Also of Interest**

---

**March 23, 2021**

39 Wilentz Attorneys Named to New Jersey Super Lawyers and Rising Stars Lists in 2021 Edition

**July 7, 2020**

U.S. District Court for the District of New Jersey Grants Final Approval of Class Action Settlement in Subaru "Starlink" Litigation

**March 31, 2020**

36 Wilentz Attorneys Named to New Jersey Super Lawyers and Rising Stars Lists

**March 19, 2019**


43 Wilentz Attorneys Named to New Jersey Super Lawyers and Super Lawyers Rising Stars Lists

**WILENTZ**

—ATTORNEYS AT LAW—

ABOUT | ATTORNEYS | BUSINESS SERVICES |

SERVICES | PERSPECTIVES | + SHOW SITEMAP

 855-945-3689



© 2022 Wilentz, Goldman & Spitzer, P.A. All rights reserved. [+ Disclaimer](#) |  
[Privacy Policy](#) | [Credits](#) | 855-945-3689



## **RICHARD M. KERGER**

### **Professional Experience**

Richard M. Kerger was one of the founding partners in the law firm of Kerger & Kerger, now The Kerger Law Firm, LLC, located in Toledo, Ohio where he specializes in trials and appeals. Before that he was a partner in the firm of Marshall & Melhorn, also located in Toledo. He joined that firm as a trial lawyer and came to head the firm's Litigation Department. He also served as a managing partner of the firm for nearly 20 years. Before coming to that firm he served as a law clerk for Chief Judge Thomas D. Lambros of the United States District Court for the Northern District of Ohio. He served in the United States Air Force and while in college, he served as legislative correspondent, city editor and editor of The Ohio State Lantern.

### **Business Experience**

He was one of three Special Directors serving on the Board of Triarc Corporation in connection with the settlement of shareholder litigation. He served for several years as a member of the Independent Review Board of The Medical College of Ohio. He was a member of the Board of Directors on The Fahey Bank in Marion, Ohio. He has also served on the boards of several local businesses.

### **Professional Activities**

He was selected as a fellow of the American College of Trial Lawyers, Litigation Counsel of America, International Society of Barristers and American Board of Trial Advocates. He is a Senior Counsel in The College of Master Advocates and Barristers and was elected a Fellow in the American Board of Criminal Lawyers. He is a member of the Million Dollar Advocates Forum. He is a member of the Ohio State and Toledo Bar Foundations. He is a Life Member of the Sixth Circuit Judicial Conference and was Chair of the Life Member Advisory Committee. He was a member of the Board of Governors of the Ohio State Bar Association, having previously served as Chairman of its Federal Courts and Practice Committee. He was a member of the Board of Trustees of the Toledo Bar Association and chaired both its Federal Courts and Grievance Committees. He is recognized by Corporate Counsel as one its Top Lawyers in America. He is listed in the 2019 edition of The Super Lawyers and The Best Lawyers in America in the fields of Bet-the-Company Litigation, Commercial Litigation, Complex Litigation, First Amendment, Construction Litigation, Labor and Employment, White-Collar Criminal Defense and General Criminal Litigation. He is described in the international legal resource Chambers and Partners as a lawyer to handle "cases involving serious risk to organisations or their members, be the risk civil or criminal." He is further described in that same publication as "a well-thought of lawyer whose experience includes product liability and patent cases." He has served as an Adjunct Professor at the University of Toledo College of Law teaching Litigation - Strategy & Tactics. He is the author of the novel When You Practice to Deceive and the nonfiction books The Art of Being a Trial Lawyer, The Client's Guide to Litigation and a co-author of Commercial Litigation in Ohio. He has also been selected as one of Ohio's Super Lawyers by Cincinnati Magazine since 2004. He lectures and writes on legal topics for a variety of organizations and publications.